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APPENDIX

RELEVANT DOCKET ENTRIES

1969

Oct. 9—Complaint of National Organization for Women filed with Pittsburgh Commission on Human Relations.

Nov. 3—Commission finds probable cause (1 dissenting vote) and directs public hearing be held.

Nov. 7—Respondent Pittsburgh Press Company furnished with copy of Complaint.

Nov. 20—Respondent requests postponement of hearing.

Nov. 21—Hearing postponed to January 15, 1970.

1970

Jan. 6—Answer to Complaint filed.

Jan. 15 and 16, Feb. 12 and 26—Hearings held before Pittsburgh Commission on Human Relations.

July 23—Order of Pittsburgh Commission on Human Relations filed.

Aug. 21—Appeal of Pittsburgh Press Company from Order of Pittsburgh Commission on Human Relations filed at No. S. A. 768 1970 in Court of Common Pleas of Allegheny County, Pennsylvania.

Aug. 21—Petition for Supersedeas of Pittsburgh Press Company granted and bond in the amount of $1500.00 filed.

Sept. 9—Answer to petition for appeal and counterclaim filed.

Nov. 9—Praecipe for Appearance of the Commission filed.

Relevant Docket Entries.

Nov. 9—On Order of Court, leave is granted American Civil Liberties Union, Greater Pittsburgh Chapter together with Civil Rights and University Committee for Women's Rights to file a brief Amici Curiae.

Nov. 10—Record received and filed.

Nov. 10—Brief for City of Pittsburgh filed.

Nov. 10—Petition to intervene of National Organization for Women filed.

Nov. 11—Brief on behalf of the National Organization for Women filed.

Nov. 17—On Order of Court National Organization for Women is permitted to intervene as a party appellee.

Nov. 20—Brief of Amici Curiae filed.

Nov. 23—Supplemental Brief Amicus Curiae of the Equal Employment Opportunity Commission filed.

Nov. 30—Reply briefs of Pittsburgh Press Company and amicus curiae the American Newspaper Publishers Association filed.

1971

Mar. 24—Opinion of Martin, J. filed affirming order of the Human Relations Commission and the Pittsburgh Press Company directed to comply with the order dated July 23, 1970, within 30 days.

April 21—After argument of counsel, the order dated the 23rd day of March amended to direct compliance with the order of July 23, 1970, on or before May 10, 1971.

April 22—Appeal of Pittsburgh Press Company filed with Commonwealth Court of Pennsylvania.

Relevant Docket Entries.

April 28—Certiorari from the Commonwealth Court of Pennsylvania filed showing an appeal ex parte by Pittsburgh Press at No. 315 C. D., 1971, returnable 20 days after service.

April 30—Petition for supersedeas presented and granted by Kramer, J. following hearing.

June 25—Record lodged with Commonwealth Court of Pennsylvania.

1972

January 27—Opinions and Dissenting Opinions of the Commonwealth Court of Pennsylvania filed.

February 18—Petition of the Pittsburgh Press for allowance of appeal filed with the Pennsylvania Supreme Court.

June 21—Petition for allowance of appeal denied by the Pennsylvania Supreme Court.

COMPLAINT OF NATIONAL ORGANIZATION FOR WOMEN, INC.

Complaint

CHR—Form 1 (55) Number: FHP
COMMISSION ON HUMAN RELATIONS FEP 558
PITTSBURGH, PENNSYLVANIA CRC
on the complaint of National Organization for Women Complainant against Pittsburgh Press Respondent

Date: October 9, 1969

I National Organization for Women residing at 726 St. James Street (32) Telephone 621-4753 charge Pittsburgh Press whose address is 34 Boulevard of the Allies (22) Telephone 263-1100 with a discriminatory practice relating to employment on or about September 10, 1969 & before by (See particulars below.) because of RACE ( ) RELIGION ( ) ANCESTRY ( ) NATIONAL ORIGIN ( ) COLOR ( ) PLACE OF BIRTH ( ) SEX (X) The particulars are:

The National Organization for Women charges the Pittsburgh Press with deliberate and constant violations of Section 8(j) of the Human Relations Ordinance as amended by Ordinance 395. The National Organization for Women has attempted on several occasions to convince editors and publishers of the Pittsburgh Press that their policy of allowing employers to place advertisements in the male or female columns, when the jobs advertised obviously do not have bona fide occupational qualifications or exceptions, is unlawful.

I have not commenced any action or proceeding based upon the above grievance.

(Juror omitted in printing)

Notice of Public Hearing.

NOTICE OF PUBLIC HEARING

PITTSBURGH COMMISSION ON HUMAN RELATIONS

NATIONAL ORGANIZATION FOR WOMEN
v.
PITTSBURGH PRESS
} FEP 558

NOTICE OF PUBLIC HEARING

TO: Mr. Barney G. Cameron
Vice President
Pittsburgh Press
34 Boulevard of the Allies
Pittsburgh, Pennsylvania 15230

Mr. Gerald H. F. Gardner
National Organization for Women
726 St. James Street
Pittsburgh, Pennsylvania 15232

You are hereby notified that pursuant to Sections 13(g), (h) and (i) of Ordinance No. 75 of 1967 of the City of Pittsburgh, as amended by Ordinance No. 395 of 1969, a public hearing will be held by this Commission on December 10, 1969, at 10:00 a.m., Eastern Standard Time, in Bar Association Meeting Room, 9th floor, City-County Building, Grant Street, Pittsburgh, Pennsylvania, to consider the above-captioned complaint.

Annexed hereto is a statement of the charges contained in said complaint.

DAVID B. WASHINGTON
Executive Director

Dated 11/10/69

Notice of Public Hearing.

STATEMENT OF CHARGES CONTAINED IN THE COMPLAINT OF THE NATIONAL ORGANIZATION FOR WOMEN AGAINST THE PITTSBURGH PRESS

The National Organization for Women charges the Pittsburgh Press with deliberate and constant violations of Section 8(j) of the Human Relations Ordinance as amended by Ordinance 395.

The National Organization for Women has attempted on several occasions to convince editors and publishers of the Pittsburgh Press that their policy of allowing employers to place advertisements in the male or female columns, when the jobs advertised obviously do not have bona fide occupational qualifications or exceptions, is unlawful.

ANSWER TO COMPLAINT

BEFORE THE COMMISSION ON HUMAN RELATIONS PITTSBURGH, PENNSYLVANIA

NATIONAL ORGANIZATION FOR WOMEN
v.
PITTSBURGH PRESS
} FEB. 558

Answer to Complaint Before the Human Relations Commission

1. A complaint was filed before the Commission on Human Relations of the City of Pittsburgh on October 9, 1969. An informal meeting was held between certain members of the Commission, the complainants and representatives of the Respondent Pittsburgh Press on October 16, 1969. At that time an informal position letter from the Pittsburgh Press on the general problem of Male-Female help wanted advertising was presented. Subsequent thereto the Commission, at its meeting November 3, 1969, directed that a public hearing be held. Said hearing is schedule for January 15, 1970. Pursuant to Rule 7(f) of the Regulations of the Commission on Human Relations, the Respondent Pittsburgh Press hereby submits this Answer.

PRELIMINARY OBJECTIONS

Respondent contends that the complaint should be peremptorily dismissed for the following reasons:

1. The complaint is so vague that Respondent is not adequately able to defend it on its merits. It does not meet the requirements of Rule 2(c) of the regulations of the Human Relations Commission.

2. The complaint does not comply with Rule 2(a) of the Commission's regulations in that neither the complainant Mr. Gardner nor the National Organization for Women is aggrieved within the meaning of the Rule.

3. The complaint alleges a violation of Section 8 J of the Human Relations Ordinance. Section 8 J makes it unlawful employment practice,

> ". . . to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful employment practice or to obstruct or prevent any person from enforcing or complying with the provisions of this ordinance or any rule, regulation or order of the Commission or to attempt directly or indirectly to commit any act declared by this ordinance to be an unlawful employment practice."

The complaint does not allege any violation by any other person. The Respondent cannot be guilty of aiding etc. another in the violation of the ordinance when no such violation is proved or even alleged. One cannot aid that which did not occur. Neither does the complaint state or allege that the Respondent as an employer is itself violating any provision of the ordinance. Respondent contends that without alleging or proving a violation of the ordinance by an employer which was aided etc. by Respondent the complaint is invalid on its face and must be dismissed.

4. The chief allegations of the complaint seem to be a failure to accede to the requests of the complainant or NOW. This does not constitute a

violation of laws and therefore the complaint does not state a cause of action upon which relief can be granted.

5. The Human Relations Ordinance contains numerous exemptions and exceptions. The complaint does not indicate whether the acts complained of were without those exemptions and if so—how.

6. The complaint is an effort to regulate the method of presenting want ads to suit reader preference. Such regulation would constitute an abridgement of freedom of the press in violation of the First Amendment to the Constitution of the United States of America.

7. Nothing in the ordinance prohibits directly or through implication the classification of help wanted advertising and reader interest groupings and the complaint is therefore void on its face.

ANSWER TO THE APPARENT INTENT OF THE COMPLAINT

1. The Respondent denies that any part of its help wanted advertising classification system violates any section of the Pittsburgh Human Relations Ordinance. On the contrary, Respondent has gone to great efforts to establish a system which complies with both the letter and the spirit of all applicable Civil Rights Laws.

Respondent's defense of this system is outlined as follows:

1. The Human Relations Ordinance prohibits discrimination in employment on account of sex. It does

not mandate the elimination of all distinctions between men and women.

2. There are fundamental differences between men and women and in their social and cultural mores. These differences manifest themselves in job preferences.

3. There is no law prohibiting men and women from preferring different types of work.

4. Such job preferences have been recognized in separating help wanted advertisements into male, female, or male and female.

5. In considering illegal job criteria other than sex, such as race, religion, etc., such job preferences do not exist in any significant degree. Negroes and whites have essentially similar job preferences as do those with differing ethnic and religious backgrounds. It is not valid to compare discriminatory racial preferences with legitimate job interest classifications between men and women.

6. To be certain that classifications of jobs by sex cannot be assumed to be purposes of discrimination, the Pittsburgh Press has adopted the headings "Jobs-Male Interest" and "Jobs-Female Interest" and has put a clear, boldly printed explanatory box on every page of want ads. By its very wording this convenient method of listing jobs is not discriminatory. There is no law or ordinance prohibiting the recognizing of job preferences of the sexes any more than there is the recognizing of reader preferences in establishing a society section or a "News of Interest to Women" section. The Council of the City of Pittsburgh did not prohibit the

isting of want ads by reader preferance. It is not with-
n the capacity of the Human Relations Commission to
stretch the language of the current ordinance to cover
hat which it was never meant to cover. The ordinance
says that employers may not discriminate in hiring on
he basis of sex. It does not say that Newspapers can-
not recognize by classified want ads that men and wo-
men generally tend to favor different jobs. One of the
safeguards of the democratic process is that the van-
guards of social change are the province of legislation
not that of quasi-judicial agencies established to en-
force, not make the laws. NOW apparently wishes to
radically restructure the preferences of men and wo-
men. The Respondent is not legally compelled to help
hem do so.

The complaint should be dismissed.

CHARLES R. VOLK
THORP, REED & ARMSTRONG
Attorneys for Respondent
Pittsburgh Press Company

Hearing of January 15, 1970.

TRANSCRIPT OF TESTIMONY OF HEARINGS BEFORE THE PITTSBURGH COMMISSION ON HUMAN RELATIONS

Hearing of January 15, 1970

BEFORE THE COMMISSION ON HUMAN RELATIONS
PITTSBURGH, PENNSYLVANIA

National Organization for Women
v.
Pittsburgh Press

Proceedings of hearing held before the Commission on Human Relations. T. Z. KORSAK, Chairman; REV. WILLIAM E. JOHNSON and MRS. L. J. REIZENSTEIN, Commissioners; City Council Chambers, City-County Building, Grant Street, Pittsburgh, Pennsylvania, Thursday, January 15, 1970.

APPEARANCES
Representing:

National Organization for Women
Attorney STANLEY VALADEZ

The Pittsburgh Press
Attorney CHARLES R. VOLK

Pittsburgh Commission on Human Relations
City Solicitor RALPH LYNCH

Amicus Curiae
Representing:

Allegheny County Council on Civil Rights
Attorney GILBERT VENABLE

American Newspapers Publishers Association
Attorney RALPH N. ALBRIGHT

Hearing of January 15, 1970.

National Association of Women Lawyers
Attorney JANE PICKER

Pennsylvania Human Relations Commission
Attorney S. ASHER WINIKOFF

Women's Equity Action League
Attorney JANE PICKER

Eve Guggenheim
Attorney EVE B. GUGGENHEIM

American Newspapers Publishers Association
Attorney W. FRANK STICKLE

Opening statement on behalf of the Commission on Human Relations in FEP Case no. 558 — National Organization for Women v. THE PITTSBURGH PRESS.

Will you please come to order.

This hearing has been ordered by the Commission on Human Relations to consider the charges of unlawful employment practices filed by the National Organization for Women against Respondent. The hearing will be conducted by a hearing panel, composed of three members, appointed by the Commission on Human Relations in conformity with the requirements of Ordinance No. 395, approved July 7, 1969. The members of the panel are Mrs. Florence S. Reizenstein, Reverend William E. Johnson, and your speaker, T. Z. Korsak.

The Commission on Human Relations was established by Ordinance No. 237, approved June 25, 1955, as amended. That ordinance as amended prohibits discrimination in employment because of race, color, religion, ancestry, national origin, place of birth, or sex, and gave

the Commission administrative and enforcement powers in the field of employment.

On October 9, 1969, the National Organization for Women filed a formal complaint with the Commission charging PITTSBURGH PRESS with violation of Section 8 (J) of the Human Relations Ordinance. The primary aim of the Commission on Human Relations is to eliminate discriminatory practices by conciliation and persuasion through private steps. A number of complaints have been satisfied in this manner. Notwithstanding attempts for conciliation, including a private hearing on October 17, 1969, a complete conciliation of this complaint was not secured.

On November 3, 1969, the Commission with one dissenting vote found that probable cause existed in the complaint and directed a public hearing to be held.

On November 7, 1969, both parties were notified that the public hearing would be held in the case and the Respondent was furnished with a copy of the complaint.

On November 10, 1969, a notice of the hearing and a statement of charges was sent to the Complainant and Respondent and the hearing was scheduled for December 10, 1969. On November 20, 1969, the Respondent requested the postponement of the hearing and on November 21, 1969, the Commission postponed the holding of the hearing until January 15, 1970.

On January 6, 1970, Respondent PITTSBURGH PRESS filed its answer to the complaint with the Commission, which answer contained preliminary objections. The answer of the Respondent and its preliminary objections

will be made part of the record of this hearing and will be considered by the Commission in its reaching its decision. The following organizations have asked to enter an appearance as amicus curiae: American Newspaper Publishers Association for PITTSBURGH PRESS

The Allegheny County Conference on Civil Rights, the National Association of Women Lawyers, The Pennsylvania Human Relations Commission and the Women's Equity Action League on behalf of the National Organization for Women.

Since it is the purpose of the Commission to get all the facts pertaining to the issue in this case, the participation of the amicus curiae has been authorized by the Commission and after the presentation of the case by the Complainant and by the Respondent, the amicus curiae will have the opportunity to present their views either orally, by submitting briefs, or both. Pursuant to the provisions of the Human Relations Ordinance, the Commission adopted procedures for public hearings, which procedures are part of its regulations filed in the Department of Law on January 6, 1969 as amended on December 1, 1969, said amendment being filed in the Department of Law on December 4, 1969. Parenthetically, the amended rule is Rule 5 which deals with reconsideration by the Commission. A copy of the Regulations was distributed to all interested parties.

Rule 7 of the said Regulations of Chapter 1 thereof, controls the procedure for public hearings. Subparagraph (1) of paragraph (i) on the Rule provides that the circumstances surrounding the complaint shall be presented before the Hearing Commissioners by the City Solicitor. Since this is not a Commission initiated com-

plaint, although the City Solicitor will be present at the hearing, to advise the Hearing Commissioners on the point of law, the City Solicitor shall turn over the presentation of the case on the part of the Complainant to the Complainant's Counsel. Both parties before this hearing may be represented by counsel, submit testimony and other evidence and cross-examine all witnesses.

In the conduct of this hearing, the Hearing Panel shall not be bound by the strict, technical, rules of legal evidence. The Hearing Panel has the full authority to control the conduct and procedures governing this hearing and to admit or exclude testimony or other evidence presented. The Hearing Panel will rule on all motions and objections. All rulings and determinations made by the Hearing Panel will be by a simple majority vote. The Hearing Panel may call and examine witnesses, may request the production of documents or other matters present in the hearing room. It may direct the City Solicitor and his Assistants to introduce documentary or other evidence. All stipulations that may be entered into during the course of this hearing may be made on the record at the open hearing. A stenographic record will be made of this hearing. Within a reasonable time after the conclusion of this hearing, the Hearing Panel will issue its findings of facts, and such order as the finding of fact shall warrant.

The Commission decisions will be based on the facts developed during the hearing and put into the record. The Commission will approach this matter with an open mind. The Hearing Panel may find that the facts developed do not substantiate the charges filed, or on the other hand, it may find that the facts do substantiate

the charges. The fact that the Commission called the public hearing will not prejudge the outcome of this matter.

If the parties are represented by Counsel, the Chair would like at this time to have the Counsel indicate their appearance for the record.

National Organization for Women
Attorney Stanley Valadez

The Pittsburgh Press
Attorney Charles R. Volk

Pittsburgh Commission on Human Relations
City Solicitor Ralph Lynch

The Chair: All right, now, this would end the picture taking and I would call now on the City Solicitor to start the proceedings.

Mr. Volk: Mr. Chairman, as noted in your opening statement, the complainant is represented by Counsel and has entered their appearance.

Mr. Valadez: And the Respondent is represented by Counsel whose appearance has been entered, together with amicus curiae. So I think you can begin to proceed with the case.

The Chair: In this case, I will call on the complainant.

Mr. Volk: Before you do so, we would like to interpose our preliminary objections and they are intended to go to the initial phases of a proceeding. We feel that while the Commission is not bound by the technical rules of evidence, its being a quasi-judicial body issuing orders supposedly by law bound by the concept of due process

of law as embodied in the Fourteenth Amendment of the Federal Constitution and also the Pennsylvania Constitution, and that in regard to that we feel that any preliminary matter of going to the holding of this hearing or to the complaint under which it is held, particularly the sufficiency of the complaint or as to any other technical matter not going to the actual thrust of the complaint should be fully heard prior to the taking of any testimony and prior, well, to the taking of any testimony and prior to any discussion of the alleged merits of the complaint. We have filed with due notice seven preliminary objections contending that they go to the very fundamental freedoms of the Press and to fundamental matters which are of interest to newspapers throughout the country. This being almost a case of complete first impression in the United States of America: There are very few other instances where newspapers have been askd to do the radical act that the complainants here seek. We therefore feel that due process of law compels the Commission to hear full argument on the preliminary objections and to take briefs on them and to rule on them before any testimony is taken. This position was stated to the City Solicitor's office, although not to the current City Solicitor, and to the Attorney for the Petitioners. A preliminary meeting was conducted last week or the week before. So it does not come as any surprise to them that this is the approach we are going to take.

At this time, I would like to leave with the Commission, for myself and amicus curiae, the various preliminary matters we have filed.

Incidentally, one technical aspect. I assume it is permissible for Counsel to remain seated.

The Chair: So long as you are audible please feel free to be comfortable. We do not require people to stand up except where witnesses are sworn in.

Now, it is quite true that due process and constitutions govern our proceedings. It is also, however, quite true that these are not proceedings of a nature which you would bring in Common Pleas Court or in County Court. And, consequently, unless you object to the jurisdiction of the Commission, then your preliminary objections were not as to jurisdiction but as to lack of due process. We will hear your arguments as part of your response. And for simplicity's sake, since we are not bound by technical rules, I will deny your motion to present your views at this time but at the time that your turn comes, then you can present all the arguments you want to, plus briefs, plus any testimony, so that the Commission can fully get the picture on which to make its decision.

Now naturally our decision, as you know, is appealable. You always have the right to appeal from our order and that way your due process will be protected. We are more after the fact and the truth. We don't want to deny anybody due process, but in conformity with our standard procedure we noted your preliminary objections. If you want to make additional arguments, you may do so at your turn.

Mr. Volk: Well, that's your ruling. I assume we are permitted to make a comment upon it. Therefore you are asking us to come before you and defend a complaint so vague and so improperly drawn as to be incapable of adequate defense. You are also calling us to come forward and defend before you the charge of aid-

ing and abetting a crime which had not been alleged that anybody committed. You are, therefore, putting us at our peril to defend something that is ineffective in its beginning. This, sir, is denial of due process and I think some of the civil libertarians who comprise some part of your Commission and who perhaps are here today would indicate very strongly that denial of process is not cured by right of appeal. Therefore many criminals are walking the street who were denied due process in initial proceedings and this was not cured by right of appeal. Certainly, if you do deny us due process, which you just have, we can appeal it and have the whole proceedings overturned and an Order of Court having it ruled to be held over again. And if that is what the Commission wants, that is what we will do. I want Mr. Stickle to comment, too. He has the right.

Mr. Stickle: I would like the record to reflect the position of the amicus for the American Newspaper Publishers Association; we do believe, agree, and indicate in our petition to appear, that we observe procedural defects in the proceeding. And I would like the record to show we believe the procedural defects and preliminary, depositive of this particular proceeding on the complaint brought by the National Organization for Women.

The Chair: We will call a recess for two minutes. (A two minute recess was had)

The Chair: Before I continue, since the amicus curiae responded before I would ask that those who represent themselves for the record at this time.

The amicus curiae for the Complainant then identified themselves:

Hearing of January 15, 1970.

Representing:

American Civil Liberties Union,
Greater Pittsburgh Chapter
Gilbert Venable, Esq.

Allegheny County Council on Civil Rights
Gilbert Venable, Esq.

Women's Equity Action League
Jane Picker

National Ass'n of Woman Lawyers
Jane Picker

Eve B. Guggenheim
Eve B. Guggenheim, Esq.

Pennsylvania Human Relations Commission
S. Asher Winikoff

The Chair: Mr. Volk, after consulting with the City Solicitor, we have decided to let you represent argument on the matter of due process. But please be, if possible, brief.

Mr. Volk: I assure you, sir, that while I can't guarantee that I will be brief, we will certainly not be redundant, nor will we argue at any length greater than we feel absolutely necessary to properly present the point.

Our first objection to the complaint, or whatever it is — declamation, I would call it, rather than complaint — filed by the National Organization for Women is too vague to be capable of adequate defense. We contend that it violates in itself on wording Section 2C of the regulations of your Commission, Which 2C5 says the dates or date of the alleged unlawful discriminatory practice — I am sorry — the alleged unlawful practice

and a statement of all particulars thereof and the dates or date of alleged discriminatory practices-thereof itself; by any judicial standard, the declamation filed by the National Organization for Women does not allege the particulars thereof and does not allege how the discriminatory practice which is charged is indeed discriminatory, except that it apparently violates the wishes and desires of the organization NOW, the National Organization for Women. Now we feel the failure to accede to the desires of this organization may be socially reprehensible in the opinion of this organization and perhaps some of their supporters. But it is not illegal and does not constitute a violation of the Human Relations Ordinance, at least, not yet. Secondly, and I might add, sir, this is not a pettifogging defense. We have been presented with the list of eight witnesses who are expected to testify. None of them apparently private individuals who have been discriminated against. I don't know until we hear the testimony. We don't have the slightest indication of the direction the Complainant will take, whether it will be the usual mishmash of pseudopsychology and sociology. We have heard them—or whether it's actually going to address itself to some proofs that might stand up in court. We, up to now, don't know what to defend. We have been charged with the declamation of discrimination without knowing this particular practice is discriminatory.

The Chair: May I interject at this point? If after the presentation of the Complainant's case you will need time for specific answers, the Hearing Panel will be quite willing to grant you sufficient time to prepare specific answers, because, after all, what we're after is finding of facts, whether or not the Ordinance was

violated. And I don't want to be argumentative and it may be true that complaints at times are not artistically drawn, but this is not, as I say, Common Pleas practice proceeding.

Mr. Volk: I don't want to be argumentive when I'm supposed to be making a speech. But the fact this is not a Common Pleas Court does not relieve the Commission of following the basic tenets of due process of law and to use instead of the word "of art" a practice word, a basic, good, legal proceeding. Because while your orders are not themselves enforceable by you, they are enforceable by Common Pleas Court. And an order which will be enforced by a court must be drawn in a manner which would be sufficient for that court to determine if the order is proper. So we are, in effect, before Common Pleas Court. We are informal, I will admit to that. But we are not a French Revolutionary pre- guillotine or before the guillotine revolutionary body. Not yet. Businesses have few civil rights perhaps, but they have a couple left. And one of them I think, is the right to due process of law.

The Chair: Now, let me say this, Mr. Counsel. That when we agreed to permit you to make a statement on due process we did not expect a political or sociological statement representing a viewpoint.

Mr. Volk: I don't believe, sir, that you have gotten one. That last statement of mine was in response to an interjection of yours. It was not a preliminary objection.

The Chair: I am not a French Revolutionary. I am a Conservative.

Mr. Volk: It was addressed to a procedure.

Hearing of January 15, 1970.

The Chair: The Commission procedure may be very — not yet perfect. But we are after the facts. So will you proceed, please?

Mr. Volk: Our second complaint is a more technical one, and one I will not dwell on. And that is that the complaint does not comply with the regulation 2A in that neither the complainant, Mr. Gardner, who does not allege in his affidavit that he is complainant for N.O.W., although we will waive that objection, nor is it the National Organization for Women who is aggrieved within the meaning of the rule. We don't see how any of these are aggrieved. Mr. Gardner doesn't say he was discriminated against nor does the National Organization for Women say who was discriminated against. This however, I think is a very important argument. And that is our next one. The complaint alleges a violation of Section 8J of the Human Relations Ordinance. Section 8J makes it an unlawful employment practice to aid, incite, compel, coerce or participate (it could be any of those) in the doing of an act declared to be an unlawful employment act, or to obstruct or prevent any person from enforcing or complying with the provisions of this ordinance, it rules, regulations, etc. The complainant does not allege which of those words of art the Press is guilty of committing. However, we assume the thrust of the complaint is that by publishing want ads under a male or female column we are aiding the commission of a violation by some employer, who himself is prohibited from discriminating in his hiring policies. We, therefore, appear to be — the complaint is defective in one or two ways. It does not tell us what we are supposed to be guilty of doing. It does not say the Pittsburgh Press it-

self has been discriminating in its hiring and it does not say who we have aided and abetted.

Now, the Human Relations Ordinance is of limited scope. It applies to the City of Pittsburgh. Obviously it does not apply to the state of Pennsylvania or to the United States. And it has within it certain exceptions. It only applies to employers of five or more. It does apply to employers from outside the city of Pittsburgh. It does not apply if there is a bona fide occupational qualification. Theoretically, the Pittsburgh Press would be perfectly able to help an employer of four or more discriminate, if they wanted to, which they don't. They would be perfectly able to help the McDonald Aircraft Corporation, from wherever they may be, outside the state of Pennsylvania, and city of Pittsburgh, to discriminate in the hiring of people to work in the state of Washington or California, as far as the ordinance is concerned. Therefore, we feel it incumbent upon the complainant to tell us what we are doing that is bad. We are accused of aiding and abetting someone who has not been accused of anything to be aided or abetted in, and we feel that to be a fatal defect in the complaint. We feel the complaint should have encompassed how we do no fall within the exceptions or exemptions. And it does not state that. And, more importantly, and I would like Mr. Stickle to have an opportunity to present arguments on this, too, this Ordinance, as they want it interpreted before this proceeding, would have required prior censorship on the newspaper in telling them how they are to publish material before it is published. You are telling the newspaper, in effect, that the Pittsburgh Press here can't have an ad or a section of their newspaper to list jobs according to preference, reader interest as they

deem it to be — male interest or female interest. They attempt to tell us, even though there is an explanatory box at the beginning of each section of the want ads, a large explanatory box, stating that the law prohibits discrimination by sex, and that the jobs are only classified this way because of reader interest. They are attempting to tell us we cannot do this; that we can't run our newspaper this way. It is approximately like saying we can't have a section which says "news of interest to women," which is run. We couldn't have a section which would say "news of interest to men," which, we don't have. You are attempting to put prior restraints on the publishing of a newspaper. And we believe, sir, in all sincerity this is in violation of the First Amendment of the Constitution of the United States. And, third, a reading of the ordinance itself by anyone, trained or untrained in the law, will tell you, tell anyone that it does not say anything about help wanted advertising. It talks about discrimination in employment. There is no allegation that the Pittsburgh Press has discriminated in employment. And we feel the complaint as stated is void upon this base.

I would like to have Mr. Stickle to present his views, and I assure you I hope, like myself, he won't be overlong.

Mr. Stickle: Mr. Chairman, I would like to make the members of the Commission a very brief statement. Mr. Chairman, you mentioned earlier that perhaps if the matter were jurisdictional you would be interested in hearing of it. It is our position that, indeed, the defects in this complaint are jurisdictional. Indeed, you have jurisdiction of the parties, of the Press and N.O.W.

However, as to the subject matter, unless — and we will talk about it in terms of a crime — unless the court or quasi-judicial body has the jurisdiction to handle the crime, it does not have jurisdiction over the subject matter. I state — and I think perhaps your solicitor would agree — that the mere stating of a violation of 8J is not a statement of the violation of the ordinance. There can be no violation of the ordinance by merely violating 8J. There must be some unlawful conduct. Now 8J provides for aiding, abetting, inciting, compelling, coercing the doing of an act declared to be unlawful in the ordinance. There are any number of acts declared to be unlawful in the ordinance. There is not a question that the complaint has stated all of the actions. It has not stated that any of the unlawful actions have been committed. Therefore, the mere recitation of 8J is a nullity. There has been no complaint or unlawful act stated over which the Commission has jurisdiction. I would respectfully submit on behalf of the amicus that there is no jurisdiction in this Commission to hold a hearing to bring to summons before the Pittsburgh Press on the allegations in this complaint. I would say to force the Press to come here initially, to incur the expense of participating in a hearing of this nature without jurisdiction in the Comission, without the bare allegation of a violation does indeed involve a denial of due process. I heartily endorse those arguments made by Mr. Volk. The reading of the very short complaint indicates a violation only of 8J and then cites a disagreement apparently between the National Organization for Women and the Press. Mr. Volk has stated no defense can be made for that charge. No one can make a defense of a charge of violating 8J. It would be impossible. When a quasi-judicial body such as

this adopts procedural regulations, I believe it is ele
mentary law that his body must follow each and ever
regulation so promulgated. Its failure to follow any par
ticular step in its hearing procedure absolutely canno
avoid court condemnation. That is basic in the law, as
see it. And, indeed, there are several of the regulation
governing the conduct of the hearings specified in regu
lations that simply have not been complied with an
cannot be remedied by the taking of testimony. It is
procedural defect that will remain irrespective of testi
mony or proof.

Mr. Volk said we do have a number of other argu
ments, and I am not going into them now. They are mor
to the substance of attempts to apply this law to th
Press, and not in the Press's capacity as an employer bu
in the Press's capacity as a newspaper publisher. We se
severe Constitutional problems with this proceeding i
we can glean the thrust of N.O.W.'s complaint and hov
they would ask the Commission to apply 8J. We see fur
ther due process problems; we see First Amendmen
problems. You have stated we will make those argu
ments, if and when a case is put on. But we do also hav
a brief we have prepared, to be filed at the earliest mo
ment the Commission will accept it. It relates to the pro
cedural defects and to our substantive arguments relat
ing to any attempt to regulate the Press and bring th
Press in by this type of proceeding, in effect, as one o
the entities covered by the Act. We have 3,000 employ
ers and employment agencies. And the only thing we ca
speculate on is that N.O.W. would like the Commissio
to extend its jurisdiction over newspaper as a category
We think this is defective.

I will not go on because you have stated you want this to be brief. We emphasize that these procedural arguments we have made have great merit, and we do ask that this complaint be dismissed on the basis of these arguments; and if and when a complaint over which this Commission has jurisdiction could be brought, it could be held, wherein the limits of the proceedings will be defined. This is an unlimited, limitless proceeding that can go in all directions under any particular violation of the Ordinance. Thus we urge upon the Commission to dismiss this complaint, of course, without prejudice to N.O.W. If they have complaints that are recognizable under the ordinance, bring them

Thank you.

Mr. Volk: I would move that this Commission decides this preliminary matter prior to the taking of testimony. It is part of due process.

The Chair: I think, if I may respond to the motion which was already denied, the Commission considered your response and preliminary objections and decided to make them a part of the record. As to the jurisdiction aspects, in my beginning remarks I was very careful to point out that our procedure as set out by the ordinance was observed and that the Commission found probable cause, not unanimously, with one dissenting vote. Since our attempts at conciliation were not completely successful, we had only the one way open, and that is to get a public hearing so that we could get to the merits of the case, including the matter of on the one way discrimination and on the other way censorship.

So at this point I believe I will ask attorney for the complainant to start proceeding his case.

Hearing of January 15, 1970.

Mr. Valadez: Before calling witnesses, Mr. Chairman, I would like to reply in part to counsel for the respondent.

In your opening statement you indicated that the previous meetings had been had with the Pittsburgh Press; that there had been an interchange of letters and at lease one meeting. So the respondent is fully aware of the problems and issues in this matter. And I would move that we incorporate all the letters or minutes of any meetings that we may have had; that this be incorporated as part of the complaint. And I would further ask that Gilbert Venable, who is here as amicus curiae, be permitted to comment on my motion.

Mr. Venable: The thrust of this problem under the due process laws under the 14th amendment is of course, that a person is entitled to know what he is being charged with. Therefore, many functions to pleadings both notice and more formalistic functions to them. However, we feel that this notice function has been met by the prior exchange of correspondence between the National Organization of Women and the Press and the Commission, and that if there is any defect in this fundamental fairness principle it can be cured, it can easily be cured by incorporating these prior documents.

Mr. Volk: I would like to say—

The Chair: Excuse me. I will let you speak in just a second. Oh, go ahead.

Mr. Volk: I want to say, of course, the formal correspondence from the Commission could be incorporated into the Commission on record of the case. However, the meetings at which we were invited to attend were both described as both "informal." We were not summoned.

We were invited and the efforts were made to conciliate. But at no time were we given any form of specific complaint on what acts, what advertisements, who we aided and abetted or any other defect we address ourselves to. And since they were informal meetings to which we were invited, I would request that no minutes of such meetings be incorporated into the record.

The Chair: Let me answer the motion and your argument. Since the purpose of the Commission is to achieve conciliation, our conciliation meetings are private and off-the-record. If you want to introduce into evidence any specific letter, you will have to introduce it individually as an exhibit. We cannot have introduced into evidence by wholesale or by reference any document. And our own files on the matter, although they give background to the Commission, are not the matter which would be used to determine the facts in this case. This is why we have this hearing. So if you want to specifically introduce documents, identify them, make them part of the record, we will rule on the documents if there is an objection. But we will not agree to admit wholesale a bunch of documents by reference.

Mr. Valadez: We are prepared to proceed and call our first witness. Dr. Gerald H. F. Gardner.

Hearing of January 15, 1970.

DR. GERALD H. F. GARDNER, witness called on behalf of the complainant, and first being duly sworn testified as follows:

DIRECT EXAMINATION OF GERALD H. F. GARDNER

By Mr. Valadez:

Q. For the record, would you give us your full name?

A. My name is Gerald H. F. Gardner.

Q. Your address, Mr. Gardner?

A. I live in the City of Pittsburgh, 726 St. James Street.

Q. Did you sign on behalf of N.O.W. and file with the Pittsburgh Human Relations Commission any document?

A. Yes, I filed a complaint with the Commission on behalf of the National Organization for Women.

Q. Can you state succinctly for the Commission the matter about which you complained about in the document that you filed?

A. Yes, our complaint is centered on the system which the Pittsburgh Press uses in classifying help wanted advertising. We believe that this system does not present men and women with equal employment opportunities.

Q. Can you tell me what is this organization called N.O.W.?

A. N.O.W. is an organization of men and women. One of the purposes of the organization is to promote equal employment opportunity for all people, but especially for women.

Q. You stated previously that you objected to the system that the Pittsburgh Press uses in classifying help wanted ads. Can you describe the system?

A. Well, there are three main sections in the classified advertising. Section 3 is labelled "Jobs—Male In-

terest." Section 5 is labelled "Male or Female." And Section 6 is "Jobs—Female Interest." Almost all advertising must go into one of those three sections.

Q. How big are those sections?

A. Well, on an average, I would say the male section has about 1600 column inches. The female section has about 400 column inches and the male-or-female section has about 100 column inches.

Q. How are the advertisements arranged in each section?

A. Generally, advertising by employers is arranged in alphabetical order according to the initial letter. Among these advertisements by employers there are advertisements by employment agencies. They usually list many jobs within one block. That block is then usually placed in the section according to the initial letter of some key word which the agency places at the top of the block of the advertisement.

Q. In what way does this system relate to employment opportunity?

A. Well, I would just like to quote one sentence from the City Ordinance, if I may. This is the policy of the City of Pittsburgh. "It is . . . the policy of the City of Pittsburgh . . . to assure the right and opportunity of all persons to participate in the . . . economic life of the City . . . free from restrictions because of race, etc. and sex."

Q. And you have a comment as to whether these employment opportunities listed in this manner are being offered equally to men and women?

Mr. Volk: May I raise the objection? I don't wish to be tedious, although so far I have been. I

don't believe that Mr. Gardner has demonstrated any competence to express such policies of sociology and economics as this line of questioning is leading him into. I realize we are not governed by technical rules of evidence, which would be mere petti foggery. Mr. Gardner has quoted the Ordinance, which I am sure you know pretty well. That does not constitute testimony. He is now going to tell us how he believes this system discriminates, which is not factual testimony and this shall be confined to counsel in their briefs or oral arguments. And I move it be stricken as irrelevant.

The Chair: Since it may be technically the witness was not qualified as an expert, but since we are interested in developing all the possible facts, we will deny your motion and make you an exception. Proceed please.

Q. The question was to the effect whether the ads presented in this manner offer equal employment opportunities to both sexes. Would you comment?

A. I believe the jobs when published in accordance with this system are not offered equally to men and women. It is a fact that this law about which we are talking treats the categories of race, color, etc., and sex in precisely the same terminology. It does not draw any difference between sex and race. Therefore, we feel that "Jobs-Male Interest" is perfectly analogous to "Jobs-White Interest".

Q. Dr. Gardner, what is your profession?

A. I am a mathematician.

Q. What educational achievements or degrees have you acquired in your field?

A. Doctor of Mathematics, from Princeton University.

Q. What does your work consist of as a mathematician?

A. The work consists of applying mathematics to solving practical problems.

Q. Does this involve the use of any specialized equipment, or give you any knowledge in any field?

A. Yes. One of the ways now a days one can apply mathematics is by use of computers, and much of my work is with computers and people connected with them.

Q. Are there many people working in the data processing field?

A. Yes, this is practically an exploding industry. Last year is was estimated there were 300,000 programmers and systems analysts; next year it is estimated there will be 500,000.

Q. What jobs are commonly advertised for in the Pittsburgh Press for the data processing people?

A. Well, there are about five or six general categories. There are systems analysts, programmers, computer operators, key punch operators and there are math majors and statisticians. And those are the six main heading under which jobs are regularly advertised.

Q. Are women employed now in the data processing field?

A. Yes, to a considerable extent. I think nationwide something like 20 percent. But this varies from company to company. For example, at Bell Telephone Laboratories of all their programmers 40 percent are women.

Q. In the classified advertisements, do they describe data processing, that is does the Pittsburgh Press

describe data processing as a female interest or a male interest occupation?

A. Well, the data processing jobs are divided between the male section and the female section. Only very seldom do they appear in the male-or-female section. The jobs which do appear in the male section are generally system analysts, programmers, computer operators, mathematicians and statisticians. The category which appears in the female section is key punch operator.

Now if I might just make a point on that. In order to see this, I think one should examine the newspaper and see how, for example, employment agencies use this system. Each employment agency has a spectrum of jobs. They have to, within this system, assign certain jobs as having male interest and certain jobs female interest. Now, in order to see how this system evolved

Mr. Volk: I am going to object again. We have a man testifying by law of declaration on what the practices are of employment agencies. I think this is improper testimony.

Mr. Valadez: The witness has signed a complaint. We are intending to elicit his reasons for filing the complaint. As for the latter part of Mr. Volk's comment, we have some exhibits to show how we arrived at his comment: that the employment agencies use one system or another.

Rev. Johnson: Did we understand you to say you have exhibits?

Mr. Valadez: Yes, we are about to go into that point now.

The Chair: Alright, your objection will be noted and will be overruled.

Q. Dr. Gardner, you have testified that employment agencies practice ads they place in classified sections, or I believe you said primarily with the exception of key punch operators in the male section. Do you have an exhibit or some chart which you have prepared to reflect what you are saying?

A. Yes. In order to bring out what is unfair to women in the way in which people use this system, we prepared as an exhibit, which is in the book which you have in your hand, a compilation of how the advertising agencies placed their advertisements, I think it was on January 4. If we may have that first chart. This chart demonstrates the salaries that are offered by the employment agencies in the various columns. This chart contains the first —

The Chair: Excuse me. Now these three things were handed to us, are you proposing to offer it as an exhibit?

Mr. Valadez: Yes, we are proposing to offer it as an exhibit at this time. The exhibit will show how the employment agencies advertise in the male and female sections.

Mr. Volk: We object for the purpose of the record. Are these documents of different hues the same document?

Mr. Valadez: Yes.

The Chair: Well, note the objection.

Q. Dr. Gardner, would you comment on the chart, what the chart purports to show.

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The Chair: Is the chart to be offered as an exhibit?

Mr. Valadez: The chart is incorporated in the exhibit on page 2 of the cover sheet. It is merely enlarged for this purpose. The chart is not exactly a copy of the exhibit.

The Chair: Then the chart is not an exhibit?

Mr. Valadez: That's right. It does contain portions and illustrations from the document offered as an exhibit.

Q. Dr. Gardner, will you comment on the chart please?

A. Yes. In the exhibit, this list is in alphabetical order. Here it is in the order it was taken from the newspaper, I believe. Now the jobs in red are in order to point out those in which the differential in salary between jobs of interest to men and jobs of interest to women is largest. Those in green show a moderate difference, although this means one is half the other. And the one in blue is fairly comparable. I'd like to comment I'd like to comment on the one in blue, where there is not really a significant difference in salary. All of the jobs which are listed under "female interest" are duplicates of advertisements which were also placed under "male interest." Now, all of these listing here, several of these —

Mr. Volk: I am sorry. Could you repeat that please?

A. Say, fifth from the top, CAREER employment agency, all of their advertisements appearing in the "jobs-female interest" section also were placed in the section "jobs-male interest." In other words, these advertisements appear twice.

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Mr. Volk: I don't want to intrude. In what manner does it appear there then? Did you put it in both columns?

A. No, I didn't put it in both columns. CAREER put it in both columns.

Mr. Volk: I mean for your computation purposes.

A. The female column of the chart contains jobs taken from that section labelled "jobs-female interest." Now some of these agencies specialize in data processing jobs, but they don't appear generally on this chart because these are agencies which have jobs advertised in both columns. But in the exhibit there are listed all of the agencies, and generally the agencies that specialize in data processing just put the jobs in the male section. Sometimes they put one advertisement in the female section, and that is generally for a key punch operator.

Just as a second exhibit, I would like to introduce a single page to point out the discrepancy they use in this system. In the male column there is listed all of these jobs — data processing managers, systems analysts, programmers, and so on, as well as computer operators and key punch operators. But in the female columns, the only advertisement put in is an advertisement for key punch operator.

I would like to have this as a separate exhibit because in this data processing field there is a very definite difference between the ways jobs are advertised for men and women.

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Q. One final question, Dr. Gardner. In reading the Pittsburgh Press, which contains the disclaimers, under the classification of "male" and "female" interest in the data processing field, is it not a convenience for the reader?

A. We have to bear two things in mind. One thing is convenience for the reader. The other is the danger that the job seeker will lose an opportunity by the fact that they do not scan the male interest section because of the presence of the word "male." In other words, many women will not enter that section, in spite of any disclaimer, because they are women and do not want to be identfied as having male interest. So this, I think, is particularly acute in the data processing field because none of these jobs has any sort of qualification which makes it a "male interest" rather than a "female interest" job.

Q. Thank you, Dr. Gardner.

The Chair: I would like to call two minutes recess.

(A two minute recess was then had.)

The Chair: Mr. Volk.

Hearing of January 15, 1970.

CROSS EXAMINATION OF GERALD H. F. GARDNER

By Mr. Volk:

Q. Mr. Gardner, as a mathematician, do you own your own company? Do you work for somebody? How do you operate?

A. No, I work for an industrial company.

Q. What is our position?

A. Senior Scientist.

Q. Senior Scientist. As such, do you hire employees?

A. I have on occasion, yes.

Q. Do you hire employees who are recruited by others, or do you recruit your own?

A The company does the recruiting.

Q. You have mentioned the column inches. You gave us certain statistics. Did you measure those column inches with a rule?

A. Yes, that was in January.

Q. Did you measure them with a rule?

A. Yes, an inch ruler.

Q. Mr. Gardner, have you ever been denied a job on the basis of your sex?

A. I don't think so.

Q. You made the statement that the classification "Jobs-female interest", in your view, is the same as "job-colored interest", or job-Irish interest", or some other ethnic classification. Do you have any study or statistics that you have either made or that you have seen that you could give us as proof that there is not a great legitimate grouping of jobs by sex which is not there as in the case of ethnic interest?

A. I don't think any such thing exists.

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Q. You are not in a position to testify that there isn't really a large body of interest in women for certain types of jobs and in men for other types of jobs?

A. I would agree with you that certain employers prefer to hire women for certain jobs. Yes.

Q. That isn't what I said. I was talking about the interest of the job applicant not the interest of the employer.

A. Well, what's generally true, of course, is not relevant to fair employment practices. It is obvious that the interest of the individual is paramount. Even if it happens that women generally prefer one particular type of job, that doesn't mean you exclude all women from applying for some other type of job, or something like that. In other words, if —

Q. You are not then attempting to tell us that there isn't a large trend for women to prefer one type of job?

A. I wouldn't say prefer. I'd say occupy. Many women are secretaries. But that doesn't mean that they prefer secretarial work to something else. Maybe —

Q. We don't know that they don't.

A. No. The fact is, many women are secretaries. Whether they prefer that, is something else. I think —

Q. You have no way of knowing whether this job preference is lesser or greater or anything like that for one ethnic group or another.

A. I don't think it makes any difference. I —

Q. That's an expression of opinion. I'm asking you about facts.

A. Well, the fact is that the law is based on what is true for the individual. If the individual has the capacity to do a job that's what is important. It's not what is generally true in some group. The principle of nondiscrimination is that the individual has to be judged on individual capacities, not on—

Q. Thank you, sir for the learned treatise on the law. I will referr you to Dr. .....

What are the qualifications of a key punch operator?

A. The usual qualification is that they have two or three months' practice. It takes the same amount of time to become an efficient key punch operator as it would be an efficient typist. The jobs are essentially the same.

Q. In other words a key punch operator is essentially a typist on a specialized key board?

A. Yes, but it also helps to be familiar with computer operations. And sometimes they even have to be a programmer.

Q. What are the job requirements for a programmer? What does a programmer have to know?

A. Generally, they have to study several languages at a University suitable for the machine. In other words they have to translate what a person wants done into the instructions which can be transmitted to the machine. There are three recognized levels of programming — Programmers A, B and C. A.: they not only know how to program the machine but they invent the program. Programmer C, at the bottom end, merely translates the instructions of others.

Q. Does a programmer have to know how to type?

A. Yes, usually they do —

Q. Why?

A. Because when you make corrections to a program, you usually do the key punching yourself. The point of having key punchers, as such, is that it is efficient to translate masses of data onto cards, onto programming cards. When you want to make a change in a program you do the key punching yourself.

Q. Does this have to be done rapidly, or as I would do it, with one finger?

A. The thing to do, is to be correct.

Q. It does not require extensive typing skill?

A. Not necessarily. The usual thing is to have key punch operators around because programmers don't have the necessary skill. For a large program you use a key punch operator.

Q. You have given us some statistics on salaries appearing in the male and female interest sections. You didn't break that down into types of jobs.

A. What I did was list the advertisements by each employer and look to see which jobs rated $12,000 and which $6,000.

Q. You made no attempt to break that down on the given day you made the survey, into the number of heavy labor jobs advertised versus the number of executive jobs advertised?

A. Actually, we do have that data but we were not going to present it as an exhibit. But if you like, we do have it.

Q. No. [Laughter] I somehow expected a mass of data. And to prepare a brief will be adequate without incurring any more.

A. That's what we felt, too. [Laughter]

Hearing of January 15, 1970.

Mr. Volk: Procedurally, sir, is Mr. Stickle or the other amicus curiae permitted to cross exam

Mr. Volk: Procedurally, sir, is Mr. Stickle or the other amicus curiae permitted to cross examine?

City Solicitor: I understand from Mr. Washington in the preliminary conferences there was some form of agreement that amicus curiae would not.

Mr. Washington: This was our understanding with counsel.

Mr. Volk: I don't really remember what was discussed. I don't remember agreeing to anything.

Mr. Valadez: Amicus curiae would limit himself to making oral or written briefs.

The Chair: What I would propose to do is reserve the ruling on this matter until after the lunch recess.

Mr. Volk: We dont take a strong position on it your honor, because there are four or five amicus curiae. And if we all cross examination, it would prohibit the proceedings. We only have one on our side. That's what we had. That's why we would like to do it.

City Solicitor: I think there would be very little gain.

The Chair: If amicus curiae would like to ask a question, he could ask his counsel. Otherwise, I think it would be rather lengthy.

Mr. Volk: Could we have a second while we discuss this?

The Chair: Surely.

Q. Mr. Gardner, what is it that you, as complaintan want the Pittsburgh Press to do that they are nc doing? What sin do you wish them to omit an what virtue do you what to come in?

A. Well, I could make a suggestion of how you coul solve the whole problem. You merely have no hea ings of any kind. List all the jobs alphabetically.

Q. Alphabetically, by what?

A. By the key letter chosen by the advertiser on th basis of some key word. Like "data processing would go under D. That's what happens now, withi each section.

Q. How would you suggest we handle something lik "salesman"? Would you say "salesman and/c woman"?

A. No. You have already solved that problem, becaus now you advertise in this sphere for "sales person

Q. In the Pittsburgh Press?

A. Yes. [Laughter]

Q. They have done that in quite a few instances?

A. I think they have recognized —

Q. To eliminate discrimination from individual ads. A a matter of fact they have a program — do yc know that they have a program to eliminate an hint of discrimination itself?

Q. I have never heard of the program, but, in fac their advertisements are much better.

Q. Precisely. Data processing people go to trainin schools, don't they, sir?

A. They also go to universities.

Q. I misphrased the question, I believe. There ar schools that train people in data processors?

A. Most data processors don't go to those schools.
Q. There are key punch operators who do?
A. Yes.
Q. Do a large percentage of your key punch operators go to such schools?
A. I think they probably do.
Q. They teach it in some high schools, do they not, sir?
A. I think so.
Q. Do you have any knowledge of a difference in percentage of girls versus boys who enter these key punch operator schools?
A. There are substantially more women who are key punch operators than men. But, there are men.
Q. But there are primarily girls in business school and technical schools who take key punch operating?
A. There are more girls who are key punch operators, but that doesn't mean they prefer key punching to something else.
Q. I am not asking that. I am asking are there more girls in the schools to learn?
A. I don't know that.
Q. How about schools to teach programming.
A. There are departments at the university, like the department of computer science.
Q. I see ads for data processing for technical schools.
A. They are not worth much.
Q. They may not be worth much, but do they train them?
A. They don't train good ones. That's one of the problems in today's society. Programming is an expanding field. It looks attractive to people. They say, go to school and become a programmer. What they learn is not programming. They are taught super-

ficial things. In my opinion, it's a bad sort of thing that is happening.

Q. Do you know the percent of male and female who enroll in these courses?

A. You were talking about training programs? No. In university departments of computer science the ratio is about thirty percent female. Women are discouraged from entering this field although they are not actually prohibited.

Q. Who discourages them?

A. All sorts of people, including the Pittsburgh Press by putting jobs for key punch operators in the "female interest" section. If a woman restricts her reading, which I presume you would like them to do, to female interests, then the only data processing job she would see is key punch operating, which is not attractive.

Q. What you would like to do is for the Pittsburgh Press to take the initiative in guiding the wishes of girls in choosing careers?

A. No, not —

Q. Rather than reflect the interest as it presently exists.

A. No, what we want the Pittsburgh Press to do is advertise jobs for men and women so that there is equal opportunity, equal access to reading them.

Q. I think we are getting argumentative now. In your survey on advertising, on January 4, did you take them all, the whole want ad section?

A. Yes.

Q. Including 'laborer' wanted, 'yardman or yardwoman', 'firepersons'?

A. What is in this exhibit is all the advertising by employment agencies, and the other exhibit we did not introduce included the advertising by all employers. It is more voluminous. This is to show how agencies divide jobs which they advertise between the two sexes.

Q. You did not take the little individual ads?

A. We did in the other, not in this one.

Q. That's all.

Mr. Valadez: No further questions.

City Solicitor: Mr. Chairman, I would like to ask one question. I'm not too sure if we have it in the record.

By the City Solicitor:

Q. As I understand it, that in compiling the exhibit and testifying about it, you are a mathematician and a concerned individual, but you have no particular training or background or education in this area other than a mathematician? Is this what the record shows?

A. You mean formal education in this area? No. But I have been studying this problem for some time now, so I am somewhat familiar with the way employers and employment agencies advertise.

Q. There is no technical education or employment background?

A. No.

The Chair: The witness is dismissed.

Mr. Volk: I was just going to suggest if your next witness is going to be a lengthy one, it might be wise to break now.

Mr. Valadez: Our next witness will not be a lengthy one, unless the cross examination would be.

The Chair: We had planned to break at twelve. So if your examination is about twelve minutes. If counsel for respondent does not mind examining after lunch.

Mr. Volk: I don't care. It might be an inconvenience to the witness if he has to go somewhere.

The Chair: In this case, I will call a recess now and we will reconvene at one twenty.

Mr. Volk: Any objections to our leaving our materials at the table?

The Chair: I hope they are safe, but I can't guarantee it.

(The public hearing recessed at 11:48 a.m.)

Tape #3. Afternoon session. January 15, 1970.

NOW vs. The Pittsburgh Press.

The Chair: The hearing will please come to order. Before I call on Mr. Valadez for his next witness, I would like to call on the City Solicitor to present on record his assistant, who will continue the hearing.

City Solicitor: I would like to have introduced on the record Assistant City Solicitor JOHN L. DAUGHERTY, who will represent the Commission during my absence.

The Chair: MR. VALADEZ, are you ready to introduce your next witness?

Mr. Valadez: SARAH MORTON.

Hearing of January 15, 1970.

SARAH MORTON, called as witness on behalf of NOW, and being first duly sworn, testified as follows:

DIRECT EXAMINATION OF SARAH MORTON

By the City Solicitor:

Q. What is your name?
A. My name is Sarah Morton.
Q. And what is your address?
A. 5739 Walnut Street.
Q. Pittsburgh?
A. That's right.
Q. What is your profession?
A. I am a librarian. I have a Master's degree in Library Science.
Q. Have you had occasion to utilize the Pittsburgh Press, specifically, the classified section?
A. Yes, on January 5, I used the January 4 classified ads in search for different jobs.
Q. And what was your experience?
A. Well, I experienced complete prejudice in the "Male Interest" column.
Q. Can you tell us?
A. Let me read it here. I write it out. First column was under "Jobs - Female Interest" and the job was was listed as Librarian. I said I was inquiring about the Librarian job,, and the woman asked if —

Mr. Volk: Before she goes on, I am not going to object, but I would like to call the attention of the Commission to the general low regard to which commissions and informal bodies not adhering to strict rules of testimony regard testimony.

Sarah Morton: I am a 28 year old white woman with a mid-western accent. On Monday, January 5,

I made four calls in response to want ads in the Pittsburgh Press. I have reconstructed them below to the best of my memory.

Call #1. Answering ad under "Jobs—Female Interest" — "Librarian" (Listing Agency — Manpower, 626 North American Rockwell Building Fifth Avenue and Wood street, 391-7030)

I said I was inquiring about the Librarian job. The woman asked me if I had a degree in Library Science, which was specified in the ad. I said yes. She told me about the job and told me to come down to apply.

Call #2. Answering ad under "Jobs—Female Interest" — "Teachers Part Time" (Listing agency — Employment Specialists, 2248 Oliver building, 261-2250)

I said I was inquiring about the part-time teaching job. I asked her if I could teach part-time without any education credits. She said only in parochial schools. She took my name and address and said she would send me an application.

Call #3. Answering ad under "Jobs — Male Interest" "Trainee Programmer Sys" (Listing agency — Career Personnel Service of Pittsburgh, 4151 Jenkins Arcade, 471-8926)

I said I was inquiring about the trainee programmer systems job. She said, are you a man or a woman? I said I was a woman but that it was illegal to discriminate because of sex. She said, very defensively, that I wouldn't want to work there because it was in a bad neighborhood. She

asked me how old I was. I said about 30. She said "oh" and then told me the job would be late at night and the shift would continually change, and that the neighborhood was really extremely bad. (She never told me which neighborhood it was.) I said she was still discriminating, because the amount of risk I wanted to take was my own business. She said, "Oh, all right, you can come in and fill out an application."

Call #4. Answering an ad under "Jobs — Male Interest" "Positions in data processing" (Listing agency — Robert J. Bushee and Associates, 300 Sixth Avenue Building, 471-5750)

I said I was inquiring about the data processing jobs. She said a woman (I can't recall the name) would call me back. This woman called me back. I said I was calling about the data processing ad. She said, "Yes, we have a receptionist job open in that field." I said, "I don't think you understand me, I am calling about a data processing job, which was listed under "male interest". She said a male counselor (whose name I can't recall) would call me. He never did.

You can see that when a woman calls for a job listed under "Female interest" she is taken seriously and asked for qualifications. When she calls for a job listed under "Male interest" she is given the run-around. The word "interest" does not do one single thing to alleviate the discrimination by sex fostered by separate job listings.

Mr. Valadez: Cross examination.

Hearing of January 15, 1970.

CROSS EXAMINATION OF SARAH MORTON

By Mr. Volk:

Q. Are you employed at the present time, Ma'am?
A. No, I am not.
Q. In the second job, where they said it was in a bad neighborhood, did you go to fill out an application?
A. No, I didn't.
Q. Do you know what the company was?
A. I know the advertising —
Q. But they did tell you to come in and fill out an application?
A. After a lot of harangue.
Q. Then it's a speculation on your part because you didn't fill out an application?
A. No.
Q. Now, on your third call, you said you they would give you an application, too; is that correct, Ma'am? The last one you talked about.
A. No, I never got an application. A man was to call me back. He never did.
Q. Did you make any further effort to contact them?
A. No, I didn't.
Q. You are a trained librarian?
A. Yes.
Q. You did call two libraries?
A. No, I called one.
Q. What did they tell you to do?
A. They told me to fill out an application?
Q. Did you?
A. No.
Q. You didn't know whether they would discriminate against sex?
A. It was under "Female." I doubt it.

Q. What was the second one?
A. Part time teaching.
Q. What did they tell you to do?
A. Fill out an application.
Q. Did they accept your application?
A. Yes.
Q. Did they offer you a job?
A. Not yet.
Q. What training, for example, do you have in computor science?
A. Two computer languages, one called — Comet and the other of which is a basic computer language.
Q. How many ads did you answer for computer programming?
A. I didn't apply for all of them. One of them was trainee. I don't know the most prevalent computer language, such as Cobol and Fortran. The computer languages I know aren't widly used.
Q. How many were in the Press for trainees?
A. I called all of them. That's all I got.
Q. How many of these did you actually put in applications for? None, is that correct?
A. One. I called two.
Q. Did any of these people tell you they wouldn't hire you because you were a woman?
A. No, they didn't. They probably would have a couple of years ago.
Q. Be that as it may, they did not. They did not tell you they would not hire you on the basis of your sex?
A. No, the didn't.
Q. You didn't put in applications at any of these companies?
A. Neither of the two. For the one.

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Q. That was under "female"?

A. On the two "male" I got no response. I got one after —

Q. Under "female" you got one application you put in, and you haven't heard from them either?

A. That's right, because it was "male."

Q. Do you feel they're discriminating against you because you are female?

A. The male help. The female help, I don't believe so.

Q. Why not? The result has been the same. You haven't got a job.

A. I haven't got one, because the male didn't come back. The other, I know the discrimination in Pittsburgh for librarians.

Q. Did you put in any applications or make inquiries for any other issues of the Pittsburgh Press other than January 4?

A. Yes, I have in past issues but I have never done it in a group.

Q. Was there anything special about January 4 that caused you to make inquiries on that date?

A. Yes, I was off for vacation. No, there was nothing special.

Q. Were you asked to do this for representatives of N.O.W.?

A. No. If I had, I would have kept better records.

Q. It's a coincidence because of the want ads used in the exhibit are January 4? It's a coincidence?

A. Yes.

The Chair: I have one question of the witness. You say you are a trained librarian?

A. Yes.

The Chair: What is your library training?

A. I have a Master Degree from the University of Chicago in Library Science.

Mr. Volk: May I add, I hope you find the job you seek.

A. Thank you.

Mr. Valadez: Leland P. Deck.

LELAND P. DECK, having been duly sworn, testified as follows:

DIRECT EXAMINATION OF MR. LELAND P. DECK

By Mr. Valadez:

Q. Will you give us your name?
A. Leland P. Deck.
Q. Your address?
A. 120 Jefferson Drive, Mt. Lebanon.
Q. Your profession?
A. If it's a profession, I am a specialist in Personnel Management.
Q. And your employer is?
A. University of Pittsburgh.
Q. What are your — What do your duties at the University entail?
A. I am director of Personnel, Advisor to management on its policies, and Assistant Manager in carrying out the policies of the institution.
Q. In this connection, do you have responsibility for utilizing the services of the Pittsburgh Press?
A. Yes, I do.
Q. Has your institution ever had a complaint lodged against it by the Pittsburgh or Pennsylvania Human Relations Commission?

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A. I have had a complaint filed against me with the Mayor's Committee on Human Relations. I don't understand it to be a complaint originating with the Commission.

Q. Has the matter been resolved?

A. It has been resolved by negotiation, settlement.

Q. What was the nature of the inquiry of the complaint?

A. Well, as I understand, the complaint was that I was violating the Civil Rights Act by advertising in columns with a heading "Jobs for Men" or "Jobs for Women". And the settlement was that since it was necessary to get the kind of applicants we wanted to fill the vacancies which we have, it would be necessary to advertise where we would get the proper results. I found no suitable alternative but to continue advertising. The compromise was that we would put Equal Opportunity Employer lined in the ad. Sometimes we would put "Male" or "Female" itself if we were advertising in the "Male" Section or "Female" Section. That of course, compromise had increased my cost by about 10%.

Q. In other words, by compromising with the terms of the conciliation has been an expense to the University of Pittsburgh?

A. Yes, it has.

Q. Does the University of Pittsburgh, that is, the policy of the University of Pittsburgh, to comply with the terms of the Human Relations Commission's Ordinance?

A. It is our policy not only to comply with the terms but the principles and the purposes.

Q. The principles and the purposes, as you view them from the standpoint —

Mr. Volk: I object. He is asking him to make a legal conclusion as to the meaning and purposes of the Ordinance. And while I feel personally with Mr. Deck and have the highest regard for him, I don't think his meaning of the Ordinance is relative to the proceedings.

The Chair: Could you rephrase your question?

Mr. Valadez: Yes.

Q. Is there a way of alleviating the expense factor of the University and to comply with the nature of the conciliation?

A. Well, the newspapers could change its classification system and perhaps the new system would be without critics.

Q. When the present system is constituted, you have no option or alternatives?

A. I have no practical options or alternatives. It costs about $11.00 in advertising to get one new qualified employee on the job, if we advertise in the Pittsburgh Press. There is no other media where we could approximate the same results for the same dollars. Although there are other media, it would be much more costly.

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CROSS EXAMINATION OF MR. LELAND P. DECK

By Mr. Volk:

Q. Mr. Deck, who filed the complaint against you?

A. National Organization for Women.

Q. And with whom did you work out this compromise settlement?

A. With the staff of the Commission.

Q. Were representatives of NOW present?

A. They were not.

Q. Was any public hearing held on this?

A. No hearing was held.

Q. Was any court proceeding held prior to this conciliation?

A. No.

Q. Prior to the filing of the complaint, how did you list your want ads?

A. We would advertise for some jobs in the help wanted "male" sections. For some jobs we would advertise in both sections. For some jobs we advertised in the "female" section, and for some jobs we advertised in that neuter section, "male-female".

Q. Did you find this satisfactory?

A. We got the results for the cost of $11 per candidate. There were many cases where we had to advertise in two sections to get the results we wanted.

Q. Can you give us an explanation for that?

A. Well, of one is recruiting for a secretary and ninety-nine and nine-tenths percent of all secretaries in the community are female, we find we solve our problem by advertising in the section for females. If we are advertising for a engineer—we haven't even tried advertising in the female section on the presumption we would be wasting our money. If we are ad

vertising for a laboratory assistant, we may very well advertise one day in the male section, another day in the female section, and another day in the male-female section.

Q. May I ask, in that particular case, why you don't advertise in the "male-female" section?

A. Because that section, we believe, is looked at by job seekers for very limited number of categories of jobs and we do not want, as a public institution, we really don't want any job seeker who is qualified to miss an opportunity for a job as a laboratory technician because he or she failed to read seven pages of ads. We want to maximize our opportunities to select the best qualified candidate from a number of candidates.

Q. Thank you, Mr. Deck. I have nothing further.

RE-DIRECT EXAMINATION OF MR. LELAND P. DECK

By Mr. Valadez:

Q. If you had occasion, Mr. Deck, to advertise for an attorney or medical doctor, where would you place the ad?

A. I haven't advertised for an attorney. We have advertised for people with some legal training. I think the last one we hired was a woman, and I don't know where we placed the ad. But my presumption would be in certain professions, such as attorney, that if an attorney was looking at the ads they would look where they thought the ads would be, and I think they would expect the ads to be in the male section. So I think we would get the readership for both men and women by placing the ad in the male section. If we didn't succeed in getting qual-

ified candidates, we would advertise someplace else, probably in the legal journal.

Q. In the advertisements that you have placed in the past, both in the male interest and female interest, do you have any statistics to tell us how many females responded to the male interest columns and vice versa?

A. I don't have any statistics?

Q. If what we are seeking to accomplish is to get the maximum return on job applicants, would the same result be accomplished easier if the job classifications were placed in some order, alphabetical order?

A. I am not sure, but I do think if it were done that way, some of my clientele would be a little happier with me and could turn their harassment over to some other issue other than advertisement. I think it would be preferable for the society in which we live today to eliminate the classification system, which is really anachronistic. I think its offensive to a male nurse to have to look in the female section to have to find his next job.

Mr. Valadez: No further questions.

A. So I think there maybe should be a change by preference. If a change in the classification system is made. I prefer it would be a classification system so that people would not have to look through seven or eight pages of classifications on Sunday with great likelihood of missing the job which could make a desirable change in their career. I personally would prefer that one class be employees and one class be employment agencies. But I am sure the employment agencies would not like that. Another classification system that would be helpful

would be one section for professional and managerial jobs, that is classified under the wage-hour that is exempt or non-exempt. I think it would be easier to see the jobs. The other system would be alphabetical. But that's not really ideal. Let me give you my explanation. All advertisers, such as me, would like to get our ad as close to the top of the column as possible. So I worked out a scheme where we would start our ad "academic opportunity". And the following week the employment agencies advertised "academic opportunities". We are struggling for the same thing, where we get the greater return for our dollar. And that confuses people seeking jobs. And I don't think that's a perfect solution.

RE-CROSS EXAMINATION OF MR. LELAND P. DECK

By Mr. Volk:

Q. What about a system classifying jobs by physical or mental abilities required, such as heavy labor, light labor, clerical versus creative? Do you think a system of that kind would be preferable?

A. I think it would be difficult for many an applicant to find the ad for the job that is going to be the best for him under that system.

Q. Thank you, Mr. Deck.

The Chair: Call your next witness please.

Mr. Valadez: Dr. Sandra L. Bem.

Hearing of January 15, 1970.

DR. SANDRA L. BEM, called as witness for the complainant, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF DR. SANDRA L. BEM

By Mr. Valadez:

Q. Would you give your name?

A. Sandra Bem.

Q. Your address?

A. 2400 Marbury Road, Forest Hills.

Q. And your profession?

A. I am a college professor and research scientist in psychology at Carnegie-Mellon University.

Q. Can you tell us your educational qualifications?

A. Bachelor's degree from Carnegie Tech and Ph.D. in development psychology from the University of Michigan.

Q. Do you have an area of specialty?

A. Child development and in particular sex roles and sex differences.

Q. Are you currently in research?

A. Yes, particularly in the area of sex difference.

Q. Dr. Bem, in your opinion, are these fundamental differences between men and women which are relevant to the world of work in our society.

A. No, in my opinion, no fundamental differences exist between men and women. For my first line of evidence here, let me talk about the belief on the part of many Americans; that there is some relationship between sex and temperament. The noted anthropologist Margaret Mead has done a cross-cultural study in this area and has found that the relationships that many Americans believe to be sex related,

a relationship that says perhaps that men are more aggressive or independent, women are more gentle and nurturant, does not hold across cultures. She has found cultures for example where most of the men and women in the society tend to be passive, gentle, nurturant and dependent; she found cultures in which both the men and the women tend to be aggressive, competitive, independent and assertive; she found cultures in which the men tend to be nurturant, passive, dependent and the women tend to be aggressive, independent and assertive; and as well, she found cultures in which men are the independent assertive members, and the women the gentle dependent ones. So you see that if we think about temperament in these kinds of contexts, men and women across the world play all kinds of roles; there is no one way existing for a man and another for a woman.

But more pertinent to the question of the world of work in our society is another kind of line of argument. In earlier times, in a less technological society, there were fundamental differences between men and women which might have been relevant to the world of work. There is one fundamental difference which would have been relevant at that time between men and women and that's the biological fact of life that women become pregnant and can nurse children. Now in a less technological society that fact, that biological fact of life, has a crucial influence on what kinds of roles men and women can play. In earlier times women only lived half as long as they do today and during most of their adult lives were either pregnant or were nursing children.

Now that seriously limited their ability and seriously limited the kinds of roles in society that they could play; they were not free to be career-type people at all. You can imagine what its like to be pregnant or nursing most of your adult life — it seriously limits the roles you can play. But that's no longer the case in our society today. Women now live to age 74; they have almost complete if not complete control over their reproductive lives and this biological fact of life — the ability to be pregnant or nurse — no longer dictates in any way how they need to play. So today, in a society like ours, I think that basically this difference is rendered irrelevant. It is a fundamental difference, but it is no longer relevant in the kinds of roles men and women need to play. Its simply irrelevant.

In my opinion then there are only two jobs that I can think of for which it makes a difference whether one is a man or is a woman, and I'm not being facetious here at all. The only two jobs I can think of are those of sperm donor and wet nurse; it seems to me those are the only two kinds of jobs in which one's sex makes a difference. I would go so far as to say even some the jobs for which the EEOC have said that sex is a bona fide occupational qualification, that it really isn't. For example, let's take the position of lingerie saleswoman. The EEOC said that that is a position where it is all right to discriminate; to take only a woman and not a man. Notice that our cultural preferences really act in a very bizarre, irrational kind of way. We do not think that a gynecologist needs to be a woman. And yet that is an even more intimate kind of position

than a brassiere saleswoman. So once again we simply have some irrational cultural preferences that hang around. There is no fundamental reason why a woman needs to play one role and not another.

There are some other differences between the sexes clearly; men on the average tend to be larger and stronger than women on the average. But these are very different kinds of differences. When we talk about sperm donor or wet nersing, notice that there is no woman who can be a sperm donor; there is no man who can be a wet nurse. These are differences that apply to all men and women. When we talk about other kinds of differences like physical size or physical strength, what we find is that there is a tremendous overlap between the sexes. It is true that men on the average are stronger than women on the average, but there are strong women and there are weak men. What we need to remember is that there is even more variation within each sex on these other kinds of differences than there are differences between the sexes. So finally, in my opinion there are no longer today and fundamental differences between men and women which are relevant to the world of work in a technological society like ours.

Q. If there are no fundamental differences between the sexes, then what in your opinion is responsible for the stereotyping that some jobs are primarily of female interest and others primarily male interest?

A. I've already referred to an historical reason for that. Earlier in a less technological society it did

make a difference whether one was a male or one was a female. The fact is that pregnancy and nursing did dictate something about the role you had to play in life. I think that historical fact has lingered over today into the way we raise our children. I think child raising has a great deal to do with stereotyping — that some jobs are primarily female interest and others are primarily male interest. For example, in our society it's boys primarily who are given chemistry sets and microscopes, not girls. Imagine the situation when a boy comes home home from school all excited about a biology class. He's almost certain to think of becoming a physician. A girl who shows enthusiasm for biology is told: "Well, she might like to consider nurse's training later on, in case, God forbid, she ever needs to support herself". Notice that its a very different kind of encouragement to be taken. Its not surprising that when that boy grows up he thinks of himself as wanting to be a physician; when that girl grows up she thinks of herself as wanting to be a nurse. Or similarly, think of what its like for a little boy or a little girl who is interested in math or science. Children quickly learn their fathers know all about math and science whereas their mothers don't, and are often proud that they don't. Its not surprising that in the United States 25% of the boys, but only 3% of the girls, consider a career in science or engineering. By way of contrast, I'd just like to point out that these differences in childhood do really take a toll on who becomes engineers and who becomes physicians. In Russia one-third of the engineers are women; in America

less than one per cent. In Russia, 75% of the physicians are women; in America, seven percent of the hpysicians are women. So that has a lot to do with stereotyping that some jobs are for women and others are for men.

I'd like to mention that its not only parents but teachers that stereotype. The mass media get into the act too, and teach the same stereotype. If we look at movies, or magazine stories, we almost never see women in professional roles. Occasionally, when we do see women in a professional role they are typically unmarried, or unhappy. If we look at commercials on television I predict that within five years present-day commercials portraying women will be as offensive to us as reruns of Amos 'n Andy are today. And let me add this, that the help wanted ads play their part in teaching stereotypes to young children that there are jobs for men and jobs for women. Any little girl at this point who reads the Pittsburgh Press on January 4th who had high hopes of becoming a reporter or a writer was probably a little startled to discover that she has what is called "male interest". There's a tremendous stereotype for little girls and women who have so called male interests. It begins a devastating effect of what I may call a sense of inferiority. Its a terrible thing in our society and I'm sorry that it exists but in fact its a very negative thing for a person to suddenly be stigmatized with the label of an interest that's really appropriate for the opposit sex; is that really something you want to have? Let me talk about the result of this stereotyping, of what happens because we say that

this is male interest or female interest. The most devastating effect of a stereotype is a sense of inferiority that women and girls in our society come to have. This sense of inferiority — let me talk about this first — is something that showed up not in little girls but in little black children. Let me make an analogy here. In 1954 the U.S. Supreme Court declared school segregation to be unconstitutional. It cited a psychological study by Kenneth and Amy Clark who showed three-year old black children two dolls. The dolls were identical, except that one was black and one was white. The little children were asked which doll you prefer to have. The little black children chose the white doll. The court took this as evidence that somehow our institutions had taught those little black children that to be black was worse than to be white, and therefore they felt inferior. A very similar kind of study has now been done with women in our society, and we find almost exactly the same effect. A psychologist named Philip Goldberg asked a number of female college students to read and to rate articles from each of six professional fields. the articles were put together in two sets of booklets — the same articles. The only thing that changed from one booklet to the other was the name of the author. In one booklet an article was said to be by a man for example, John McKay; in the other booklet, the exact same article was stated to be by a woman author, John McKay. Each female college student was asked to read the articles in her booklet and to rate them for value, persuasiveness, writing style, professional competence, etc. As Goldberg had anticipated, he

found that female college students downgrade articles written by women. He kind of expected this for articles from professional fields generally considered the province of men, like law or city planning, but that the female students also down-graded articles from fields generally considered the province of women, like dietetics or elementary physical education. In other words, these female college students rated the male authors as basically better at everything. The sense of inferiority that our discriminatory system of male jobs and female jobs teaches clearly has its effect.

There's one other kind of study I'd like to talk about. Some women do emerge, despite all efforts to the contrary, with what are called male interests; some women do emerge who want to be doctors or want to be attorneys. A recent study at the University of Michigan found that even though they managed to retain their motivation for these kinds of careers, there had been serious psychological damage done to them. What they found was that women who did have so-called male interests had had so much social rejection on the way up the ladder, on the way up through the educational system, that they showed an unconscious desire to fail, to be done with it all. This was an effect that never showed up in boys, only in girls. What it showed up over and over again was that the kind of childhood we have, the kind of segregational jobs that we have, clearly ingrains a sense of inferiority, a sense of social rejection, in the girl who has any sense of wanting to profit from that other role, to do something that might

be called male. This is a strong stigma in our society and can't help but affect the psychological well-being of the girls in our society.

Q. In your discussions, Dr. Bem, you have compared sex differences with race differences. Respondent in answer to a complaint filed with the Pittsburgh Human Relations Commission questioned this analogy. In your opinion is this analogy a valid one?

A. Yes, in my opinion the analogy between sex differences and racial differences is a valid one. First of all, the same societal processes are responsible for forming and for perpetuating the stereotypes about things that are appropriate for men and for women and things that are appropriate for blacks and for whites. If we look, for example, at our educational system in our society, high school counselors have a large part to play in each of these situations. High school counselors counsel black students into vocational roles; they counsel female students into home economics, nursing and teaching, once again seeing appropriate roles for whites and males, other roles for blacks and females. The same processes are involved when we look at the kind of role models that are available for young black children and young female children. Its getting easier in the black situation now, but still there is difficulty for young black children to look at the world and find a successful black adult in the world of work that they can emulate, that they can strive to be like. It is even more difficult for the young female to find a role model. If we look into the media, we find that it is almost impossible for a girl to see a successful adult woman, in the world of work, unless she happens

to see Bernadett Devlin or Golda Maier on the six o'clock news. Notice, neither of them are American women. So the same kind of processes are responsible in each of the two cases for perpetuating the stereotype that there are things for female people, and these are different from the things for men and the things for whites.

Now, the analogy between sex differences is often questioned, but I think, on one particular basis. We have all come, in America, to recognize that the status of people in our black society is inferior. And once we recognize that point we set about trying to do something about it. I think the analogy is questioned because the inferior status of women in our society is not recognized or not often admitted We have an ideology in America that says it is not an inferior position, but a complementary position. We have a myth that says women are supposed to play serving roles to men. It is appropriate for a woman to play the role of nurse to a male doctor. We have this whole ideology that says women should play these roles, not inferior but complementary. Dr. Gardner's testimony was relevant. And from that chart up there, there is no question of the fact that women are inferior in our society. I think. Because this inferior status has not been recognized, people are hesitant to admit the analogy holds. But I think it does. The only difference I can see between the racial situation and woman's situation is the reaction of people to the discussion of it. We've finally reached the point in America, and it took a long time, where people don't laugh about the black revolution.

People recognize it is a serious question that must be taken seriously and something must be done about it. When we take the women's revolution, most people still react to it as if it is still funny. The situation is treated humorously, laughed off. But I think the reaction of America to the problem is the only difference. Other than that, I think the analogy is a strong one.

The Chair: I would like to ask the witness a question. For the citation to the Philip Goldberg study, before it slips my mind, can you give us a citation to that study please?

A. I can't give you an accurate one. A 1068 — I think I do have it at my feet. April, 1968, in Trans-Action.

Q. Dr. Bem, earlier you stated that the mass media help perpetuate stereotypes that some jobs are for women and others for men. Is there any evidence that sex-segregated classified advertising itself has this effect? Is there any direct evidence for this?

A. There is very direct evidence for this. My husband, who is also a psychologist at Carnegie-Mellon, and I did an experiment this week. It was suggestive in this respect. Let me say before I talk about it that it is not a conclusive study. It is not a very very strong evidence, but it is suggestive. We did it just this week and have not had time to analyze the data as to whether or not the results are significant —

Mr.. Volk: Therefore I am going to object to its introduction. I think we have had enough speculation without the introduction of a study that has

not been verified. I have objected to it. I think the Commission can view the conclusionary aspect of them as her opinions, but she is going to give her opinions as to an experiment that has not been concluded and without statistical significance. I think she is going a little too far.

The Chair: We will sustain the objection to this particular point.

Mr. Valadez: The objection is to the introduction of the report or comment on it?

The Chair: On the comment on the study that is not yet completed or verified. Let me make this comment, however. Naturally, we don't know how long these hearings may last. I hope it does not last a few weeks. It may, the way it looks. If the study is completed and verified, you may then have an opportunity to introduce it, subject to necessary objection. But at the present moment it does not seem to be in a position to be admissible for the record.

Q. Dr. Bem, independent of the report that you just discussed, do you have any other evidence that has bearing on this point?

A. I think the answer to this question would have to be no. There is no other actual evidence.

Mr. Valadez: Cross-examination.

Mr. Volk: I would like to have a recess before I cross-examine this witness, If I may.

The Chair: How much time would you like?

Mr. Volk: About five minutes.

(A five minute recess was then had.)

People recognize it is a serious question that must be taken seriously and something must be done about it. When we take the women's revolution, most people still react to it as if it is still funny. The situation is treated humorously, laughed off. But I think the reaction of America to the problem is the only difference. Other than that, I think the analogy is a strong one.

The Chair: I would like to ask the witness a question. For the citation to the Philip Goldberg study, before it slips my mind, can you give us a citation to that study please?

A. I can't give you an accurate one. A 1068 — I think I do have it at my feet. April, 1968, in Trans-Action.

Q. Dr. Bem, earlier you stated that the mass media help perpetuate stereotypes that some jobs are for women and others for men. Is there any evidence that sex-segregated classified advertising itself has this effect? Is there any direct evidence for this?

A. There is very direct evidence for this. My husband, who is also a psychologist at Carnegie-Mellon, and I did an experiment this week. It was suggestive in this respect. Let me say before I talk about it that it is not a conclusive study. It is not a very very strong evidence, but it is suggestive. We did it just this week and have not had time to analyze the data as to whether or not the results are significant —

Mr.. Volk: Therefore I am going to object to its introduction. I think we have had enough speculation without the introduction of a study that has

not been verified. I have objected to it. I think the Commission can view the conclusionary aspect of them as her opinions, but she is going to give her opinions as to an experiment that has not been concluded and without statistical significance. I think she is going a little too far.

The Chair: We will sustain the objection to this particular point.

Mr. Valadez: The objection is to the introduction of the report or comment on it?

The Chair: On the comment on the study that is not yet completed or verified. Let me make this comment, however. Naturally, we don't know how long these hearings may last. I hope it does not last a few weeks. It may, the way it looks. If the study is completed and verified, you may then have an opportunity to introduce it, subject to necessary objection. But at the present moment it does not seem to be in a position to be admissible for the record.

Q. Dr. Bem, independent of the report that you just discussed, do you have any other evidence that has bearing on this point?

A. I think the answer to this question would have to be no. There is no other actual evidence.

Mr. Valadez: Cross-examination.

Mr. Volk: I would like to have a recess before I cross-examine this witness, If I may.

The Chair: How much time would you like?

Mr. Volk: About five minutes.

(A five minute recess was then had.)

Hearing of January 15, 1970.

CROSS EXAMINATION OF DR. SANDRA BEM

By Mr. Volk:

Q. Doctor, how long have you been in practice. When did you graduate?

A. Three years ago, 1968.

Q. Have you been in research since then?

A. Yes, I have.

Q. You talked about the results of Dr. Mead's cross-cultural study. Could you tell us which cultures she discovered with male and female were equally — excuse me if I stumble over "passive-dominant"? Would you tell us what culture she found men and women equal in passive dominance?

A. Three cultures in New Guinea. They were the Camboli, Ari — I don't recall the name of the third. They were fairly closely located together.

Q. In one, the males were dominant. Childbearing females. In another, they shared the roles. And in the third, females were the aggressors?

A. Yes.

Q. They all occurred in New Guinea?

A. Right.

Q. Were they all Melanese tribes?

A. I can't answer that specifically. I think so.

Q. How large were the tribes?

A. I don't know.

Q. Did Margaret Mead have any explanation on the differences in the roles?

A. I don't think she offered anything historically. Her conclusion was that whatever differences result in terms, in terms of male-female differences, this is not biological but culturally produced. Her conclusion was basically that males and females, the tem-

perament of males and females are not formed at birth. The adult role conception for males and females is in a particular culture what boys and girls will grow up to fit, whatever the role conception is — that they are malleable at birth.

Q. Is it her conclusion, or your conclusion, that a culture must have role conception of some kind?

A. Let me speak for myself first. It would be my conclusion that there need not be a role differentiation. It is clear that in any society, roles must be fulfilled. There must be some kind of division of labor within a society that gets that. But not a difference between the sexes.

Q. Even though there is no role difference between men and women, that lack of difference would be determined by the upbringing of children?

A. Right.

Q. You stated there are cultural differences in role playing, adult visualization in American cultures caused by things like boys getting chemistry sets. Do you have any pre-puberty cultural influences that might cause this?

A. Certainly. If we go back to nursery school, little boys are punished psychologically for playing with dolls. Now I say I am concerned about this, and I think it is unfortunate, because little boys grow up to be fathers. By three or four they are already taught that to show affection for the symbolic representation of a child, usually a doll, is an unmasculine kind of thing. It is sometimes true that it is difficult for a man as an adult to show tenderness for his children. I think this is an unfortunate

thing. We need fathers who show concern and tenderness to their children.

Q. Doctor, do you have any others you can think of at hand?

A. One thing. You may find this too similar to the things I said earlier. When a little girl starts making plans about what she is going to be when she grows up, at every juncture, it is said to her she ought not to think of that seriously, because, after all, she will grow up to be a wife and mother. Every time she begins to make plans, somewhere some institution tells her that is not appropriate. Just as with a black child who decides to be a lawyer. It was in the biography of Malcomb X. He wanted to be a lawyer when he grew up. His teacher said, maybe you ought to be a carpenter; that would be appropriate. The same thing happens to a little girl.

Q. Is this also reflected in the courses you take at school?

A. We see recommendations again. Little girls and older girls are recommended in many school systems to take home economics. Junior high school boys take wood shop whether they want to or not. Unique potential isn't considered here. It is assumed, because they were born male or female, you have those interests.

Q. Is it your testimony that this then culminates in differences in job preferences among men and women in our culture?

A. It is my conclusion that this is one of the things that leads to the beginning of job preferences in men and women. In addition, we find that simply calling a job "male" or "female" also has an effect. For example, the job —

Q. I didn't ask you that. I am trying to get our culture straightened out a little bit. I gather your testimony concludes that cultural influences throughout a child's life tend to influence their role playing or role visualization?

A. Certainly.

Q. Does this manifest itself in job preference?

A. It has some effect on the average in the kinds of job preferences.

Q. If the cultural influences are that pervasive, that sinister, or all-encompassing of the child's development, would it not logically follow that it would manifest itself in an extreme degree of job preference, as a tangible manifestation of role visualization when a child reaches adulthood?

A. On the average I think that's probably so. But there are some diverse influences on children as they are growing up. We know that the primary effect of having a working mother in the home is that the daughter grows up having a conceptualization to be herself a working woman.

Q. Again, this is part of a child's personal culture? Perhaps I am not using the right terms, but do we not have the general culture of our society so that each child grows up in a home and has his own neighborhood culture. And it has its effect. I think that's just what you said about the working mother?

A. Right.

Q. Is it not true that certain professions are disproportionately represented by different religious and ethnic groups?

A. Yes.

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Q. I have read where there is a disproportionate number of Jewish people who became attorneys.

A. Notice, we don't advertise for jobs with Jewish interest. But we could, since we know each group has its preferences.

Q. We could advertise for kosher resturants. We also advertise soul food and kosher restaurants and other appeals to ethnic preferences.

A. But we often do not. It is also true that there are ethnic differences not only in jobs but housing. Newspapers used to advertise housing for colored, housing for white.

Q. I don't wish to get into discussion of Jewish cultures. But we do have an area in Pittsburgh called Squirrel Hill. And an ad in Squirrel Hill might possibly be of more interest to a Jewish family than Italian.

A. I think your words were something like "disproportionate interest". Similarly an advertisement for clerical assistant would simply call for a larger number of female response than male. But you make a decision not to advertise "housing—Jewish", and let the applicants come as they wish.

Q. What I am trying to get from you is that cultures do reflect job preference.

A. Let me add one thing.

Q. No, let me continue. I ask the questions. You answer them. That may not be fair, but that's the way we run things in the United States of America. It does reflect a job preference, does it not?

A. Yes.

Q. For instance, there are very few Scottish priests, for example.

A. I don't, in fact, known the job preferences of Scottish people.

Q. There are more Irish priests because there are more Irish Catholics than protestants and these things do manifest themselves in job preference. And one thing that manifests itself is sex. We can conclude that?

A. Yes. One thing that reflects itself in job preference is also race.

Q. If your attorney wants to enter evidence to that effect, he may do so. For myself, I don't see where race has anything to do with job preference. How do you define sterotype?

A. A categorization, primarily. The connotative meaning includes a categorization beyond what is true.

Q. Are there cultures free of sterotypes?

A. Not to my knowledge.

Q. Isn't a stereotype indicative of all cultures?

A. Yes, or indicative of all cultures.

Q. You say that the only really bona fide differences between males and females are ones directly connected with the more obvious reproductive ones—bearing children and planting sperm and breast feeding? Do not these basic fundamental sexual differences cause much more far-reaching cultural ripples, such as, does not breast feeding and maternalism lend itself more to child raising by the mother, not the father?

A. Only when that connection is dictated by being pregnant all the time. There is no connection otherwise.

Q. I think we can take judicial notice that a child has to be generally kept by an adult until the age of six,

until the mother can get rid of him on the public school system? Doesn't that basic biological role take at least six years, and lead to the mother taking care of the child for at least six years?

A. Only to bearing the child and nursing it. It seems to me once that point is passed, there is no connection whatever between child rearing and sex.

Q. You don't think there is a cultural influence on the mother being the child bearer and staying with that child until school age?

A. I think it is convenient, but that is all.

Q. You have testified, I think, that there are in reality basic differences in physiques between males and females—that some of us more stereotyped people observe on the street — that males tend to be stronger than females?

A. Yes.

Q. It is not just that the average is a little greater. There is a severe difference, taken on any statistical average between the general strength of a male and general strength of a female?

A. I don't actually known what the averages are. Women weigh somewhere between 80 and upwards of 200. Men don't go as low as 80, up to 300. When we deal with distribution like that, averages are much closer together than the median.

Q. Do you known what the average or standard weight table of a woman 5 feet 8 is?

A. No, I never got that high on the table.

Q. Do you know what the standard weight table is for your height?

A. Probably about a hundred.

Q. Do you know what the standard weight table for a man of your height would be?

A. No.

Q. You don't look up on the table or crossways either. But does not a man of similar weight and height have a significantly higher physical capacity than a woman of the same height and weight?

A. I don't know the answer to that question. I suspect it revolves around muscles and exercise.

Q. How about bone structure?

A. I'm not an expert in that area.

Q. Are you aware of biological differences between male and female other than the obvious ones; the tendency of women to be knock-kneed and pigeon-toed slightly more so than their male counterparts; the tendency for a woman to throw a ball in that particular woman-like way because of bone structure in the arm rather than cultural type.

A. I am not an expert in the area of physical sex differences. I am sure there are others, as you mentioned, bone structure.

Q. I think you cited the per cent of women in Russia who are doctors. What was that?

A. 75%.

Q. What would cause that disparity between the United States and Russia?

A. With the revolution in Russia came the tendency to open up careers equally for women as well as men. Most jobs, to my knowledge, became accessible to women. The kind of socialization we have in America that makes a difference what sex you are was done away with.

Q. Do you know the per cent of female engineers in Russia?

A. Yes, I gave that. One-third to one-half.

Q. Do you know why there is that difference?

A. Apparently this is part of the Russian culture—because of the disparity.

Q. And this is a job preference in Russia. Apparently from viewing the statistics you presented, there is a tendency for women to be doctors?

A. I don't know if they advertise for doctors under a female interest heading.

Q. But there is an interest for females to be doctors in Russia?

The Chair: If the Chair could make a comment, one of the differences of job preferences in Russia may be attributed to the state directives and overall planning for social community. So that it could not be truly said it is a job preference. It is more a job allocation situation.

Mr. Volk: That may be so, sir. State directive, I think, is precisely what is at issue here today. A directive is an attempt by an organization to get the state to direct the newspaper to help them change the cultural patterns of our country.

Rev. Johnson: If another comment could come from the Chair. It has also been true that the overall cultural patterns of this country have also been responsible for abusing an awful lot of people, and I as a black man, can testify to this fact. And we as black people are demanding a lot of changes be made in this country. And I just direct that because culture has had a very direct effect on our people.

Mr. Volk: A reluctance of the Board to dismiss a complaint is not exactly sacrosanct, sir. I would readily agree with you that our culture has been something less than fair in its treatment of many groups. What we are saying, sir, is that social change of this nature is not the function of the want ad section of the Pittsburgh Press. If the legislature wants to change the law prohibiting want ads as being classified in a certain way, that is something to be done by thé legislature. There is nothing in the law directing the Pittsburgh Press to produce its ads in any given way and we do not feel the necessity for bearing the burden of any particular kind of social change which we personally may not either agree or wish to become a part of. So we think that the racial analogy, which we will hear over and over in this situation, is not analogous and is not a relevant one. There are legitimate differences between men and women where there are not legitimate differences between the races. And we feel while we may all strive for perfect integration, our witness has just proved that all cultures have stereotypes. And you, sir, with your personal interest and legitimate concern, and me with my support of your aims, are not going to produce this bland homogenous culture we may visualize. Cultures have their effect. To influence a child to abandon his role playing as a man or woman and assume a new stance is just as much a cultural force, which might be just as bad as forcing him to take a contrary position. We don't think the place to fight the battle is in the want ads of the Pittsburgh Press.

Mr. Volk: That is all of this witness.

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The Chair: Let me say one thing. The iss here is not whether the social model for sex equ ity is to be won in the Pittsburgh Press columns any one else's columns, but mere matter of fa whether or not the present practice of the Pitt burgh Press is violative of the ordinance. And wh we try to do as the panel is get all the informati so we hopefully can make an intelligent recomme dation to the Commission how to dispose of th case.

Mr. Volk: Sir, I agree with every word th you said.

The Chair: Will you proceed?

Mr. Volk: I am finished with this witness.

The Chair: You are finished?

Mr. Volk: Yes, sir.

Mr. Valadez: One question, Dr. Bem.

Q. Has any portion of the study that you mention in my last question to you been completed to t extent that you can make a comment on the effe that sex-segregated want ads might help perpet ate —

Mr. Volk: I'm going to renew my objection.

The Chair: Would you repeat the question?

Q. Mr. Chairman, I'm asking whether any portion the over-all study that Dr. Bem is engaged in h been completed, and to what extent we may draw

The Chair: Well, if you split your question and I am not suggesting to you how to ask que tions — is any portion of that study completed?

Q. Is any portion of the study completed Doctor?

A. Yes.

The Chair: Could you describe that portion that is completed?

A. Yes. We were able to compare — I will have to give you a little background to have this make any sense. What we did was take advertisements from the want ads of the Pittsburgh Press of January 4, 1970, under jobs listéd "male interest". We then asked a group of high school girls to rate those jobs in terms of how much interest they had. These were jobs from the "male interest" column. One set of the girls got the jobs in the same format as the Pittsburgh Press listed them, with a large disclaimer that says exactly what the Pittsburgh Press says there is no discrimination in hiring and you can consider any job. One set of girls saw those advertisements listed under jobs —. Another set of girls saw those jobs mixed up with female jobs taken from the female column, listed in order. So the girls were asked to read all the jobs and rate them. How much you would be interested in them. What we found —

Mr. Volk: Objection.

The Chair: O.K. Did you say this was not evaluated yet?

A. This part of the study has been evaluated.

The Chair: What is the finding, not the opinion?

A. Certain jobs we listed under the label "jobs — male interest" were downgraded by the female students.

They got a lower interest rating than when listed in an integrated list. Some having the male interest label there, had the girls to list them that way even if the job was simply listed "jobs available".

The Chair: That is enough. There was an objection to the report as not being completed. The question asked was, what was completed? What was found? As I indicated before, if sometime by the end of this hearing that report is completed and evaluated, then subject to your objection it may be reintroduced.

By Mr. Volk:

Q. What was your statistical correlation?

A. The difficulty is we do not know which jobs showed this deviation and which did not.

Q. How do you know if there was a statistical correlation if the data have not been evaluated?

A. The difficulty is that all jobs did not move in the same direction. We have some judgment to make as to what that means.

Q. You take the January 4 as the data?

A. We didn't use all of the jobs. That was the set of jobs from which we selected.

Q. May I ask why you picked that particular day?

A. We were going to run subjects — we had to wait for the new semester to get subjects. We don't get the Pittsburgh Press regularly.

Q. Are you a member of N.O.W.?

A. I have been in the past, but that would be a technicality. I haven't paid my dues. I don't know whether I am a member now.

By Mr. Valadez:

Q. Were you asked to make this study for purposes of this litigation?

A. No, we were not.

Mr. Valadez: No further questions.

Mr. Chair: Would counsel like seven minutes recess?

(A seven minute recess was then had.)

The Chair: Will you please come to order?

Mr. Valadez: Catherine East.

CATHERINE EAST, called on behalf of the complainant, and first being duly sworn, testified as follows:

DIRECT EXAMINATION OF CATHERINE EAST

By Mr. Valadez:

Q. What is your name?

A. I am Mrs. Catherine East, opposite of west.

Q. And your address, Mrs. East?

A. Labor Department, Washington, D.C.

Q. And your exact job title?

A. I am Executive Secretary of the Interdepartmental Committee on the Status of Women and Executive Secretary of the Citizens' Advisory Council on the Status of Women.

Q. Can you tell me the functions and membership of the two groups on which you serve as Executive Secretary?

A. These two groups were established under Executive order 11126 of the President. The Interdepartmental Committee on the Status of Women is chaired by

the Secretary of Labor. It includes the Secretaries of Labor, of the Departments of Health, Education and Welfare, Department of Defense, State Department, Agriculture, the Attorney General, Director of the Office of Economic Opportunity, Chairman of the Civil Service Commission, and Director of the Office of Economic Opportunity. Its purpose is to coordinate the efforts of the Federal Government to improve the status of women. The Citizens' Advisory Council on the Status of Women was created by the same order, is made up of 20 private citizens appointed by the President. The purpose of the group is to advise the Interdepartmental Committee, to serve as a liaison with private groups and to consider new developments and problems as they arise, and to make recommendations for action to the interdepartmental committee and to state governments to which they serve as a liaison.

Q. Has the Committee or the Council taken any public actions relative to classified advertising?

A. Yes, sir. Subsequent to the enactment of Title II of the Civil Rights Act of 1964, which prohibited discrimination because of sex as well as race, color, creed, and national origin. The Advisory Committee set up a task force of its own members to study major policy issues under that law and made recommendations for action. One of the subjects they considered was classified advertising. And they adopted a recommendation that the sex-segregated newspaper columns must be discontinued. They said — and this was published — "The Council is alarmed at the lack of compliance with this provision (this

was written about three months after the law was in effect — it came into effect July 1, 1965) as evidenced by the continued advertising in sex segregated newspaper columns. Separate "help wanted — men" and "help wanted — women" columns in newspapers serve only to advise prospective job applicants not to apply where they are not wanted, thus perpetuating discrimination. Moreover, sex segregated newspaper columns —

Mr. Volk: I am going to object, in that I don't see how this is relevant in the proceedings before us. In pre-hearing sessions, the on again, off again EEOC guidelines, some of which permitted the type of segregation that the Pittsburgh Press uses and then they would prohibit it. When we bring this up, we are informed this is a federal act and this is the city of Pittsburgh. And we are concerned with a violation of an ordinance of the city of Pittsburgh. With all due respect to our distinguished visitor, I don't think her testimony is relevant to the proceeding before us.
Could I speak to the on-again, off-again? I have a little nowledge of that.

The Chair: To rule on your action — although, true, the proceedings are under the City of Pittsburgh's ordinance, for our edification we would like to admit this testimony and grant you an exception and to hear what the witness has to say. It is true that some of the EEOC rulings may not be binding on the city. I am not sure. We will have to get legal rulings from our legal counsel at a later date. However, since the City of Pittsburgh is part of the

Commonwealth of Pennsylvania, which is a part of the United States of America, we would like to be enlightened on the national policy. So the motion is denied.

Will you please proceed. And may I ask that you speak a little louder.

A. I will finish that quote I started from the Council's findings. "thus perpetuating discrimination. Moreover, sex segregated newspaper columns actually encourage employers to place a sex label on jobs which unintentionally restricts the employment opportunities of both men and women". The Council is quite concerned by the fact that if the employers had to put their jobs in one column they might stop to think of why they prefer one sex to the other. And if they really thought about it, they might decide not. Employers have been advertising for accountants in the male column, and employing male accountants. If you had to include it in a single column and a woman applied who is a CPA, and well qualified, maybe you would stop to think, "Maybe we will hire her". The federal government immediately stopped indicating sex in its advertisements.

Prior to that time they had a discriminatory policy. And I worked for the Civil Service Commission many years, so I have more than adequate knowledge in that field. The first thing they stopped doing was including in their announcements the mention of sex. The Council is also particularly concerned, because three months prior to this time the study was published, the Equal Opportunity

Committee had held that columns, that race, that you cannot have columns separated by race. They said it is a violation of 704b to specify colored or white in help wanted ads or permit ads to include sex. Since sex and race were in the same sentence, you couldn't treat them differently, They endorsed this recommendation and forwarded it to the Equal Employment Commission for action. Now they did not adopt this at that time. They have since. We also made recommendations on bona fide occupation qualifications which the Equal Employment Opportunity Commission adopted immediately and since has been upheld by the courts. The basic most important sentence in that recommendation was this: "The Principle of non-discrimination requires that each person be considered on individual capacities and not on the basis of any characteristic generally assigned to the group". This is the basic philosophy.

Mr. Volk: What document?

This is a recommendation to the Equal Employment Opportunity Commission for interpretation of Title VII, enforced by the Interdepartmental Committee.

Mr. Volk: You said it was enforced, upheld by the courts.

This general principle has since been upheld by the courts. The Fifth Circuit Court of Appeals said, "We conclude that the principle of non-discrimination requires that we hold that in order to rely on the bona fide occupational qualification exception an employer has the burden of proving that he had reasonable cause to believe, that is, a factual basis for believing, that all or substantially all women

would be unable to perform safely and efficiently the duties of the job involved". And this was a job that required physical capacity. A physical capacity that some women would not have. The judge went on to say, "It does seem that switchmen are occasionally subject to late hour callouts. Of course, the record also reveals that other women employees are subject to call after midnight in emergencies. Moreover, Title VII rejects just this type of romantic paternalism as unduly Victorian and instead vests individual women with the power to decide whether or not to take on unromantic tasks. Men have always had the right to determine whether the incremental increase in remuneration for strenuous, dangerous, obnoxious, boring, or unromantic taks is worth the candle. The promise of Title VII is that women are now to be on equal footing. We cannot conclude that by including the bona fide occupational qualification exception, Congress intended to renege on that promise". That is from the Fifth Circuit Court of Appeals. And they are seldom overruled in the Supreme Court.

In Cheatwood v. South Central Bell Telephone and Telegraph Company, which is also in the Fifth Circuit Court—this involves a job where a woman was to be considered for the position of commercial representative, a position which—

Mr. Volk: Again, I don't wish to be pettyfogging. This is a legal argument. These are legal cases which are being quoted into the record by a witness who has not established herself as being learned in the law. I think they are more appropriate for the arguments, not their witness' intermin-

able statements, which are nothing more than the readings of governmental reports and court cases, which can certainly be incorporated in the evidence in documentary form. I think the witness should be somehow restricted to testifying to facts she knows rather than the reading of governmental reports.

Mr. Valadez: May I ask a question at this point?

y *Mr. Valadez*:

. Are you an attorney?

.. No, I am not. I have considerable knowledge on this particular point, but I am not an attorney.

. Do you have—could you tell me who appoints the Citizens' Advisory Council?

.. The President appoints the members.

. President Nixon?

.. Yes.

. Could you tell me one or two?

.. Mrs. Virginia Allen, former president of Business and Professional Women's Clubs. She is president of a drug chain in Detroit and has a long history of spending a great deal of time to improve the status of women. Dr. Cynthia Wedel. She was recently elected Chairman of the highest office in the Episcopal Church. We have had union members, Dr. Richard Lester, Professor of Economics, Princeton University, Executive Director of the National Council of Catholic Women. Dr. Henry David, Head of the Office of Science Resources and Planning of the National Science Foundation. We have had university presidents. It tends to be a group of dis-

tinguished people who have some expertise on the status of women.

Q. You have made some suggestions as to classified advertising. In your position as Executive Secretary to the Committee and the Council, do you have any personal knowledge of any newspapers that have switched to single column classified advertising consistent with the recommendations?

A. Yes, we have. This is not based on any survey, extensive survey. These are newspapers I learned about largely through word of mouth from friends who know I am interested in this area. I called to verify them. First, it was the Tribune. The classified ad manager there told me about the Baton Rouge State Times. He told me about the Lafayette Journal. Of course, the New York papers had to change their system because the city consumer affairs commissioners said they had to. They did. Then Newsday after the New York city newspapers changed to single line advertising. And they said in a memo — Don Gross, the research analyst in advertising sales, said on February 10, 1969, Newsday started running all classified help wanted advertisements without male, female classification. There were no difficulties with our advertisers.

Mr. Volk: I am going to object to this as hearsay.

A. This was introduced in the OFCC hearings. It's in the transcript.

Mr. Volk: We don't know the condition under which the question was asked. We were not there to cross-examine them.

The Chair: Do you have objection to the listing of the newspapers?

Mr. Volk: No, but what this man said as to the ease of doing this. As a matter of fact, we find this as a help, not a hindrance.

A. New York Times, Wall Street Journal, New York Daily News, Law Journal, Newsday, New York Daily Post, Oakland Tribune, Baton Rouge State Times, and Lafayette Courier Journal. This is not based on a survey. These I just picked up. But I am positive each one of these has desegregated their ads.

). Mrs. East, has the Committee or Council developed any evidence as to economic discrimination against women?

. Yes, this is one of the things we are interested in. We have some charts here relating to the statistics showing that the economic discrimination on sex is greater than economic discrimination on race is.

The median earnings of year-round fulltime workers clearly indicates the extent of sex discrimination in employment. The gap between men's and women's earnings is widening, as can be seen from the first chart. You can see, contrary to the mythology, the earnings of white women (this does not include any part-time people) are lower than non-white men. The earnings of non-white women is way down at the bottom of the heap. Chart 2. One of the reasons the gap is widening is the decreasing percentage of women in professional and technical jobs. The percentage in service workers has been steadily increasing. Chart 3. You can see from this

that women are concentrated in the lower paying occupations, where the median earnings are low. Private household workers are low, $1200; other service workers, $2800; salesworkers $3000; operative $3300; clerical workers $4200. These are median salaries—half the workers earn more, half earn less—for women full time year round workers. Chart 4. The difference between men's earnings and women's earnings by educational achievement is astonishing and is shown on the next graph in chart 4. The dotted line on it is at the level of the median earnings of women who have completed four years of college. Following that line across, you will note that men high school drop-outs earn more. You can also see that women high school graduates earn less than men with only 8 years of education. This in spite of the equal pay for equal work laws—it means that "women's jobs" are low paying and inferior to men's. Chart 5. The next chart, number five, gives a good idea of why women work. 24% of the women working in 1965 were single; 18% were widowed, divorced or separated; 11% had husbands earning less than $3000 per year; 13% had husbands earning between 3 and 5 thousand a year. The remainder—about one third—had husbands with incomes greater than $5000. So you can see that for at least two thirds of all the women who work, working is an economic necessity. They have to. Chart 6. Another way of illustrating the economic discrimination against women is the subject of the next chart, six. Almost 30% of all year-round, full-time women workers earn less than $3000 per year. —that is, are below the poverty level—whereas

11% of men are in this category. 42% of women earn between 3 and 5 thousand, as compared with 19% of men. When we get to 5000 a year and up the situation is reversed. 27% of men earn between 5 and 7 thousand, 20% of women. 43% of men earn more than $7000 or more, but only 9% of women. Chart 7. This chart shows the small percentage of women in some professional careers—1% of federal judges, engineers about 1%, lawyers around 3 or 4%, physicians a little higher at 7%—which is a little surprising. People often say, people who are uniformed, that women don't go into medicine because it takes them so long to finish—but there are more women in medicine than law, and law doesn't take so long. I think the difference probably is that there is more discrimination in law schools than in medical schools. Among the scientists—very small. The university faculties—22% are women—looks pretty good until you look at the details shown on the next chart. Chart 8. A survey was made of all the graduate schools of sociology with these results: 35% of MA candidates are women, about 30% of PhD candidates; 27% of Instructors; 15% of Assistant Professors; 10% of Associate Professors; 5% of Full Professors and one out of 120 Department Heads are women. And sociology—dealing with people—is supposed to be a "women's" field. You can imagine what it is in engineering. Chart 9, families headed by a worker. This does not include families on welfare. The two circles on the left are white families. Of white families headed by women 19% are poor while of families headed by a man, 7% are poor. Among the non-white families

headed by a woman, 53% are poor. Among those headed by a non-white man, 29% are poor. In families headed by a man, both white and Negro men, the percent had gone down considerably since 1966, but there is no decrease in families in poverty headed by a woman. I suspect some of that is directed to the fact that Manpower leans towards training men.

Mr. Valadez: If the Chair pleases, we offer these as exhibits.

The Chair: Do you have replicas in a smaller size to offer into the record?

Mr. Volk: For the record only, I object to the relevance of any of these statistics as not being germane to the issue, whether or not the Pittsburgh Press by its want ads is violating the Pittsburgh Human Relations Ordinance.

The Chair: Your objection will be noted. Do you have any cross examination?

Mr. Valadez: Cross examination?

The Chair: Before you do cross examine, I want to ask one question of the witness.

On the Citizens Advisory Council, was any member of the so-called fourth estate asked to participate?

A. No, and I don't believe there is any member of the fourth estate on the Council.

The Chair: None was asked and none is on the Council?

A. The EEOC met with the fourth estate before they made their ruling—

Mr. Volk: Which one. First, second or third.

By Mr. Volk:

Q. I am sure I got all your credentials, ma'm. Are you a government employee?

A. I am a career employee, 30 years service. This job is more than full-time. I spend about 15 hours a day on this.

Q. I didn't know if this were a volunteer organization.

A. It was formed by an executive order of the President. The Citizens' Advisory members are volunteers.

Q. And you get paid?

A. I am the only full-time paid member besides the Secretary.

Q. You said that want ads encourage women to take one job or another. How do you know this? Do you know if there are some statistics or observations?

A. Its an observation women generally make, sir. And they feel they have been discouraged from applying for jobs. Women are brought up to be, they're socialized to be a little shy about these things. Few of us manage to escape this.

Q. This is your speculation.

A. Women's groups have felt this way a long time, long before 1967. They felt this did hurt women's opportunities.

Q. May I ask your educational qualifications?

A. College graduate, Marshall University, in English. Its so far back its hardly pertinent. My experience would be more pertinent.

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Q. You said the Government passed this before they decided, before the Civil Rights Act was passed, to take from its announcements and mention of sex. Do you have any information on that, things that have changed, statistics to show any change in the percentage of women in various jobs because of this policy?

A. When a change takes place—

Q. Do you have anymore civil engineers than in 1963? If so, how many?

A. The most significant changes have been in what we call our trainee type jobs. The college graduates coming in. We hold a Federal Civil Service examination for which any college graduate may apply. The percent of women hired from that examination for professional and administrative jobs has gone up from about 17% to 30%.

Q. But are those jobs advertised per se? Do you advertise for a J.M.A.?

A. That was the old exam.

Q. You don't advertise for chemists? Or what have you?

A. Well, do you mean management or —

Q. Do you have any statistics whether your advertisements for civil engineers, typists, stenographers, ecologists, all of the other professions that are hired by the Government has changed in the rate of men and women as a result of this policy?

A. There is data. The Civil Service Commission usually analyzes that. They noted a significant change in management jobs.

Q. Have there been female guards appointed yet for male prisons?

A. No. However you advertise, if you select by sex the result is the same. We are employing policewomen in the District of Columbia, and the number has gone up.

Q. There is nothing new about policewomen.

A. They are being hired for doing more than "female" work.

Q. Do they patrol?

A. I suppose.

Q. In a patrol car?

A. They have them in New Orleans. In our building we have women guards wearing uniforms and carrying guns. Just don't come in and try to rob us. I suspect they'd get you. They get the same training in pistol practice as men do. I asked the women about it.

Q. Now you caught us lawyers a little flat footed here because we are not aware of any court of competent jurisdiction that has upheld any ETOC guidelines or rule being effective, with the possible exception—

A. The Seventh Circuit Court that goes to BFOQ.

Q. It goes to BFOQ, but it doesn't go to the guidelines. Or does it?

A. The court determines how much effect they will give to them.

Q. Precisely, and these courts have to determine guidelines based on its own case.

A. That's right.

The Chair: Excuse me. What is B.F.O.Q.?

Mr. Volk: Bona fide occupational qualification. Which in the moral philosophy of EEOC is limited to male washroom attendants and male actors for

male parts. They allow very few others, if any, including a cocktail waitress. You can't be a cocktail waitress because the customer likes pretty girls. That's not a bona fide occupational qualification.

A. Sir, the Fifth Circuit Court of Appeals took the same view — in the Weeks case.

Mr. Volk: I am familiar with that. The rest of the job was a manipulative, minor technical function that did not substantially involve any physical exertion whatsoever.

A. I think its more indicative in the statement, "We conclude that the principle of non-discrimination requires that we hold that in order to rely on a bona fide occupational qualification exception, an employer has the burden of proving that he had reasonable cause to believe, that is, a factual basis for believing, that all or substantially all women would be unable to perform safely and efficiently the duties of the job involved".

Q. We haven't legislated customer preference yet.

Are you aware that of the newspaper which you cited, which have changed, only the Lafayette Journal and the Baton Rouge Times and the Oakland Tribune are outside of New York? The rest are inside the confines of the City of New York?

A. Newsday is in Long Island. It is not subject to the law. I believe the Wall Street Journal did it before they had to.

Q. The data you pointed out — where did it come from?

A. From the Bureau of Labor Statistics of the Department of Labor or the Bureau of the Census, There's also some from the Women's Bureau.

Q. One absence I noted was a comparison of your statistics with the percent of adult women actually in the labor force as compared to the men in the labor force.

A. It is about 50% of adult women in the labor force between 18 and 50.

Q. What about the male?

A. Its much higher.

Q. That alone would account for a disparity in the labor force or any profession.

A. Not to the extent represented.

Q. But without that percent, your statistics are exaggerated. They don't reflect the true position of women in the country. They don't reflect the per cent of women in the labor force.

A. If its better than it looks, that's all to the good. Its still not good.

Q. It does not take into account marriages, drop-outs, women who do not want to work.

Now, your college statistics; you have a lot of Ph.D. candidates who don't go on to be Associate Professors.

A. I think I said that the data on Ph.D.'s — its somewhere around 87%. Its higher than men, even at the average where they would have small children. They do have children, but they don't stay home. A Ph.D. is a women who is highly motivated.

Q. Is it your contention that there is a large body of Ph.D.'s seeking positions in colleges who are denied?

A. Definitely. I see them constantly. There is a woman in Washington now preparing a case against the University of Maryland. They take men with lesser

qualifications. There are some sitting in this room who have great difficulty in finding positions.

Q. In education? In teaching?

A. Yes.

Mr. Volk: May we confer a second?

The Chair: We will recess for two minutes.

(A two-minute recess was then had.)

Q. Are you familiar with the House Judiciary Committee's Report No. 914 of the Civil Rights Act?

A. Is that the one that reported on the bill, Title VII?

Q. Yes.

A. I am familiar with that.

Q. Are you familiar with the section of Title VII that says "A prohibition of this section does not require newspapers to exercise any control of supervision over, or do any screening of, advertising notices published by them". Are you familiar with that section?

A. Yes. I don't think anybody ever said they should screen them. We at the Council never asked they screen the ads, just that they go to one column. This is on the Federal side; I'm not familiar with the Pittsburgh Ordinance. If any employer risks assuming it is a BFOQ, it is his responsibility.

Q. EEOC can tell a newspaper how to classify their ads?

A. No, they can't tell them. They can issue guidelines which may have some effect on how the courts decide.

Q. Are you familiar with the American Newspaper Publishers' case?

A. Yes, I am.

Q. Are you familiar with the ruling in that case, which I understand has not been contested by the EEOC — that the guidelines do not have the force and effect of law?

A. I don't think anybody has ever claimed the EEOC has the effect and force of law, anymore than the Federal Fair Standard Labor Act — the courts usually give them some weight.

Q. The Fair Standard Labor doesn't issue guidelines. They issue opinions.

A. The courts give them considerable weight. So far, the BFOQ — the advertising thing has never been considered. It's been held up on procedural technicalities for years.

Q. I guess there's truth to that.

The Chair: May I ask a question, Mr. Volk? Is that a reported case on EEOC? It's still in litigation?

Mr. Volk: Yes.

A. I don't think the EEOC ever claimed they have the effect and force of law. Fair Standard Labor can't issue anything as the force and effect of law.

The Chair: Is the issue whether the guidelines would have the force and effect, say, like forcing regulations under the Food and Drug Act?

. The EEOC doesn't have that power.

Mr. Stickle: The Equal Employment Opportunity Commission has exceeded their statutory authority in even promulgating a guideline.

. The newspapers don't think they should even do that.

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Mr. Stickle: We don't have anything against their having proper guidelines for them, but when they promulgate their guidelines and call them regulations, speak in forceful tones, and have them published in the code of regulations, in which only then which have the force and effect of law, we feel, and it is our position, that they are misleading the public in forcing the public into believing it is law they are reading rather than guidelines for the commission.

A. Women get a little concerned because the newspapers did not object to a similar ruling on race, within three months after the law went into effect. We think they are the same.

Mr. Stickle: I am not familiar with that ruling.

A. I read from it in my testimony.

Mr. Volk: I think the whole field is totally far afield and irrelevant. If you cross examine on an irrelevant question you get an irrelevant answer.

The Chair: Mr. Valadez, do you have any more questions.

Mr. Valadez: No further questions.

The Chair: Do I understand you have no further witnesses until tomorrow morning?

Mr. Valadez: That's correct.

The Chair: This hearing stands adjourned until 10 o'clock tomorrow morning in this room.

FEP Case no. 558 — NATIONAL ORGANIZATION FOR WOMEN vs. THE PITTSBURGH PRESS.

Friday, January 16, 1970.

The Chair: Will you call your first witness, please.

Mr. Valadez: Sandra Sheeran.

SANDRA SHEERAN, having been called as a witness on behalf of the complainant, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF SANDRA SHEERAN

By Mr. Valadez:

Q. Will you give the Commission your name and address please?

A. Sandra Sheeran, North Dithridge Street.

Q. What is your occupation?

A. I work part-time at present for my father doing research and typing. He is a professor.

Q. Do you have any other qualifications?

A. I have a Bachelor's degree, and that qualifies me to do some work in the social field, which I am interested in.

Q. And have you had the occasion — strike that. You are not a member of N.O.W., are you?

A. ?? ??? ??? ??? ??? ???? ??

Q. Sandra, did you have occasion to use the facilities of the advertising section of the Pittsburgh Press any time prior to this date?

A. Yes, on Sundays I usually look through them. I usually just look at the female. Once in a while I

look at the male because I generally feel intimidated by looking at the male. I feel if I call them that there is more of a chance than not that they might not hire me if they put it under "male."

Q. In the field you are looking for, do you find under female interest column as many opportunities to seek your type of job as there would be under male interest?

A. I think combined there would be more if they were not male and female jobs in social work together.

Q. I see. As they are listed at the time you viewed the ads, were there more under the male interest column that would suit your purpose?

A. I don't know if there were really more under the male interest. I am not just interested in social work itself. In the field I am interested, if I can't get the job I want in social work, I am interested in management and this kind of thing, and there is more under male than female.

CROSS EXAMINATION OF SANDRA SHEERAN

By Mr. Volk:

Q. What is your B.S. or B.A.?

A. B.A. in history.

Q. You are trained for some work in social work?

A. You don't have to have a B.A. in social work.

Q. Are you familiar with the type of agencies that employ social workers?

A. Yes.

Q. Who employs social workers?

A. Department of Public Assistance of Allegheny County, Community Mental Health and Retarda-

tion Center, Presley House, Kingsley House, Eastern Seal Society.

Q. In other words, mostly public or quasi-public institutions. Governmental agencies; is that correct?

A. That's correct.

Q. Have you applied for a job as a case worker with the Department of Welfare?

A. Yes.

Q. Were you accepted?

A. I was — I passed it — I passed the examination. This was in September. They had four hundred people that were being interviewed for it. They only take 50. My score was not high enough to be in the 50.

Q. Have you applied to the Juvenile Court?

A. They discriminate against women.

Q. How do you know that?

A. I talked to the man there. They have two male and two female, and they usually want male over female to take care of juvenile delinquents.

Q. Are you familiar with the ratio of male versus female as case workers?

A. I have a friend who works for Juvenile Court. Apparently they eliminated female. If they leave, they don't hire another female. They hire a male.

Q. Have you filed a complaint with the Human Relations Commission against the Juvenile Court?

A. Yes, I have.

Q. Have you filed a complaint against any other organization or association with the Human Relations Commission?

A. No, I haven't because generally I hate to complain about something. But Juvenile Court was just so

blatant about this discrimination they almost forced me to complain about it.

Q. Have you applied to any of the hospitals?

A. Yes, a lot of them require M.S.W.s.

Q. You did say you do look in the male help wanted ads?

A. Right.

Q. What type of management job would you like to have?

A. I suppose something in advertising. Any type of management in advertising. I don't know the field that well. I know social work much better since that is what I have been interested in. The job openings for bachelors in social work aren't that great. By the end of February, if I don't get what I want in community mental health, I will be looking further into management.

Q. What are you looking for in management? What would it entail?

A. I am not sure exactly. It is a lot more interesting. My father is in management. I do work efficiently in delegating authority. It is about the only thing to go into. I don't know that much about it. But I am not interested in science and this is what most male students who have a B.A. go in to. I don't know exactly what field. I presume advertising. I don't know that much about advertising.

Q. Have you made any attempt to use your history degree?

A. Yes, I would like to teach it, but I don't have my degree in education. I applied to Catholic schools, but at that time they didn't need anyone.

Q. Do you feel if you applied for a job in management, do you think you would be discriminated against because you are a women?

A. I think so.

Q. Do you think it would be any different if it were classified under "M" or do you think there would be any difference in the employer's mind?

A. I would feel much better.

Q. I didn't ask you "male—female." I mean eliminating, no section headings on want ads. Do you think this would have any effect on the manager who will be interviewing you?

A. I think it would to some extent. If they just have it under "male" and you call, it's a little easier for them to say they don't want you if you are a female. If it's not under anything, they say it's a job that they think only a male could handle. I think it's much easier for me to complain about it if it weren't under male interest.

Mr. Volk: I would, of course, ask the Commission to ignore the total testimony of this young lady as being capable of proving nothing. It is not relevant to the matter before us. She has testified that only to her own personal speculation and not to any factual matters that would go to the essence of the complaint.

Q. I apologize for not being rougher on you. I was admonished by Mrs. East because I was rougher on the male witnesses than I was on the female witnesses. My apologies to you if I haven't been rough enough.

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The Chair: Would you please call your next witness?

Mr. Valadez: For complainant, Mabel Anderson.

MABEL ANDERSON, having been called as a witness on behalf of the complainant, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF MABEL ANDERSON

By Mr. Valadez:

Q. Would you give us your name and business address, please?

A. Mabel Anderson, Cosmopolitan Placement, Investment Building, Pittsburgh.

Q. What is your occupation?

A. Director.

Q. And, in that capacity, Mrs. Anderson, do you have occasion to place want ads in the newspapers?

A. Yes.

Q. Particularly in the Pittsburgh Press?

A. Yes.

Q. Did you at some prior—strike that. How do you place your ads?

A. In conformity with the regulations of the Pittsburgh Press.

Q. And, as a result of that, were you cited by the Human Relations Commission?

A. Yes, I was.

Q. Do you—strike that. When you were cited, were you cited because of sex discrimination in placing the ads?

A. Yes.

Q. Did you subsequently have conciliation with the Human Relations Commission?

A. Yes, I did.

Q. As a result of that conciliation, what is your procedure now in placing ads?

A. I have tried to conform with the regulations. In my advertising with the Pittsburgh Press, I place the majority of my ads under male help and I cross reference it in the female, "See our ad under male help," and in each ad I place male—female.

Has that in any way increased the number of responses you have had as compared with the prior practice?

A. I haven't the statistics on those. I am sorry.

Mr. Volk: Not even for January 4? That's a local joke.

Q. Mrs. Anderson, when you do this, following the guidelines of the Human Relations Commission, did you find it was a little more expensive to do it the way you are now doing it?

A. Slightly.

CROSS EXAMINATION OF MRS. MABEL ANDERSON

By Mr. Volk:

Q. How is it more expensive?

A. In each ad I have one more line which states "male or female." It is not a sizeable amount.

Q. The complaints which were filed against you were complaints against what?

A. I was discriminating against women in my advertising.

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Q. What's different from your advertising than anyone else's advertising?

A. Nothing.

Q. Why did they pick on you?

A. I really don't know.

Q. There was no difference in the contents of your ads than Leonard, Liken Personnel?

A. No.

Q. Do you specialize in seeking employment for women?

A. Not especially. We handle business and professional types of employment.

Q. Do you have more women applicants than male?

A. In certain divisions. In the education division I have an equal number of male and female applicants.

Q. Were you ordered to change your help-wanted practices by any court or board after result of a hearing?

A. I don't know whether I was ordered. I wanted to comply, and my only solution I could think of was to include "male—female" in the ad.

Q. You never received an order? You agreed voluntarily; is that correct?

A. Yes.

Q. You said at first in placing your ads initially you were complying with the regulations of the Pittsburgh Press. What do you mean by that?

A. Well, I have been advertising for a period of maybe 30 years. It's never been any different than to put male under male and female under female. And this is what I had considered regulations of the Pittsburgh Press.

Q. Has the Pittsburgh Press told you that your current manner of advertising does not comply with their regulations?

A. There are stipulations that the Press has and we agree with them. As a matter of fact, our association, the Pennsylvania Association of Personnel Services, and Mr. Seli got together, and we must have a bona fide job before we advertise, and there are certain stipulations—maybe they are not given to us as regulations, but we comply with certain standards of advertising, of ethical practice.

Q. So the way you advertise today complies with the standards?

A. I hope so. I think so.

Q. At least the Pittsburgh Press has not complained about the way you place your advertisements?

A. No.

Q. Nothing further.

REDIRECT EXAMINATION OF MABEL ANDERSON

By Mr. Valadez:

Q. One further question. Now, does the placing of an ad under the male interest in your thirty years experience in the placing of advertising in the paper, does placing an ad under male indicate on the part of the employer a preference for sex.

The Chair: The question was asked to the opinion of the preference, which is a question based on experience in personnel work, I think, and not as of the fact of the law. So I will let the question stand and would like to hear her answer.

Did you understand the question?

No.

Q. In your experience in placing an ad, placing ads as personnel director, in your experience does the plac- of an ad under male interest in the newspaper indicate to you a preference by the employer as to sex?

A. To a great extent, yes. I would say that is true. When I put an ad under male, I presume that the preference or the place where I would get the majority of applicants for a particular type of position with certain experience or education would be preferably for a man. Not preferably necessarily, but I would draw more under the male for a particular position than I would for female.

RECROSS EXAMINATION OF MABEL ANDERSON

By Mr. Volk:

Q. Is it your experience that you draw more males for a particular position by putting it under male?

A. Yes.

Q. In other words, there is a reader preference?

A. Yes.

Q. I have nothing further.

The Chair: I have one question. Since reference was made to the complaint and conciliation, who filed the complaint against you? Do you know that?

A. It was an individual.

The Chair: It was an individual complaint?

A. The name slips me.

The Chair: It was not the Commission which filed against you?

A. So far as I know. I think it was a man who had complained to the Commission. I don't have any documents and it has been several months.

Mr. Volk: Was his name Gardner?

A. Yes, I think it was. Thank you.

Mr. Volk: Gerald H. F. Gardner?

A. Right.

Mr. Volk: Thank you very much.

Mr. Esper: Barbara Crawford.

BARBARA CRAWFORD, having been called as a witness on behalf of the complainant, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF MRS. BARBARA CRAWFORD

Mr. Esper:

Will you give the Commission your name and address please?

Yes, my name is Barbara Crawford. I live at 502 Bevington Road, Forest Hills.

What is your occupation?

I am a nurse.

Are you a member of N.O.W.?

Yes, I am.

Did they request you to compile any statistics with reference to want ads in the Pittsburgh Press?

Yes.

Is this what you had compiled?

I have the original here.

You have the original there?

Yes.

Q. Would you tell us what this compilation is? Briefly explain.

A. Well, we took the December 28th want ads, and we cut every ad, agency ads and the other ads from the listings and put them under categories of accounting, data processing—

The Chair: Would you speak a little louder, please.

A. We took the December 28 want ads and cut them apart and put them under the proper headings for jobs in fields such as accounting, data processing, trucking and delivery, etc., to compare the jobs advertised for men and those for women.

The Chair: Did you intend to submit this as an exhibit?

Mr. Esper: Yes, I do.

The Chair: Do you want to go on to qualify the witness as to exhibit?

Mr. Volk: I am sorry.

The Chair: I asked was he intending to submit this as an exhibit. Then I said, go ahead and continue your questioning, then submit the exhibit.

A. Could the Commission have copies of that?

Q. Mrs. Crawford, what were your findings after you compiled this book?

A. Essentially, that the higher, better paid jobs are listed under made interest and the duller, lower paid jobs are listed under female interest.

Q. You saw some charts presented here yesterday. And would your findings substantiate what was brought up?

A. Yes, they would.

Mr. Volk: May I just glance through this a little bit before cross examination?

The Chair: Surely.

CROSS EXAMINATION OF MRS. BARBARA CRAWFORD

Q. Are you working as a nurse?

A. Yes, I am.

Q. Where, may I ask?

A. I work in a doctor's office.

Q. Did you attempt to apply for any of the positions listed on this survey?

A. No, I didn't.

Q. Do you know did anyone associated with you apply for any positions indicated in this?

A. No.

Q. So you don't now whether the companies who did the advertising would have hired a woman for any of these jobs or not?

A. Well, I really wasn't attempting to find that out. I was arranging them in order according to salary.

Q. Well, I will get a little far afield here a minute, if I may be permitted to do so. Why did you decide to become a nurse?

A. Because I wasn't encouraged to become a doctor, probably.

Q. Most of the students in your training class were girls?

A. All of them were girls.

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Q. Would you agree with the general belief that most nurses are women?

A. Yes.

Q. If you were looking for a job as a nurse, would you have any trouble finding one if it were under the female help wanted column?

A. No. May I amplify on that?

Q. No. Have you ever been denied a job because of your sex.

A. Yes, I have.

Q. What job was that?

A. This happened several years ago. I am qualified for pharmaceutical sales, and I applied for two jobs. In one instance I was told I had tested higher than the male applicants but the company wanted a man. In the second instance, I tested very well and was not offered a job. Several months later, the gentleman who gave me the test called. He had gone to a new company that was going to sell a product that was specifically feminine, and he offered me a job at that time.

Q. Did you take that job?

A. No, I didn't take that job.

Q. Did you file a complaint against any of these employers with the Human Relations Commission or any other agency?

A. There wasn't any mechanism to do that at the time.

Q. When was this?

A. It was about four years ago. We didn't have the city ordinance.

Q. How about the Equal Employment Opportunity Commission, a federal agency?

A. No, I didn't, because I wasn't aware.

Q. Were these pharmaceutical firms general or specialty houses?

A. They were — The two I did not get a job with were general firms.

Q. Did you think that they would have given you the job had the job not appeared in the male help wanted column? Do you think it would have made any difference in the mind of this manager whether it was listed under pharmacist or general interest for pharmacists?

A. I don't know. The first gentleman with whom I spoke said, occasionally women did call and he always interviewed them, because he wanted to see what type of woman would apply for a job listed in a male wanted column.

Q. Do you know the ratio of pharmaceutical salesmen by sex.

A. I know that no women ever come into our office.

Q. Aren't most pharmaceutical salesmen pharmacists by training?

A. Not now. There aren't enough pharmacists to cover the field.

Q. What is their training?

A. Anyone who actually has a B.S. degree. But anyone who has a knowledge of drugs would qualify.

Mr. Volk: Nothing further.

Mr. Esper: Does the Commission have anything of this witness?

Mr. Volk: May we have about a five minute recess.

The Chair: Do you have any further questions? Let's make it seven minutes, to 11:00.

(A recess was then had.)

The Chair: Will you please come to order now? My request is that both counsel and the witnesses try to speak into the microphones. I am sorry, the system is not too good at times and people in the back have some difficulty hearing. Proceed.

Mr. Esper: Mr. Robert Seli.

ROBERT SELI, having been called as a witness on behalf of the complainant, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF MR. ROBERT SELI

By Mr. Esper:

Mr. Volk: Before Mr. Seli proceeds, I think the record should show he is being called as an adverse witness by the other side.

The Chair: Will the recorder so mark please.

Mr. Esper: Your Honor, this witness is called for cross examination.

Q. For the record, will you give your name and address?

A. Robert Seli, 601 Oxford Blvd., Mount Lebanon.

Q. Your occupation?

A. Classified advertising manager of the Pittsburgh Press.

Q. Can you tell us what your duties involve as advertising manager for the Pittsburgh Press?

A. I don't think we have enough time. This is my own personal opinion, but the main job is managing the employees in the classified department.

Q. In your capacity, are you familiar with the process in soliciting and selling or seeking classified advertising?

A. Yes, sir.

Q. Can you briefly describe the advertising process as it now exists? Advertising taking process?

A. Now, there are three different types of ad-taking processes in the advertising department. We have outside salesmen. We have voluntary salesmen who work in the phone room where girls take the voluntary ads that are called in. We have girls in the phone room who solicit advertising. Now these ads, if they are voluntary ads, the person who is placing the ad calls the classified department and the girl that takes the ad assists them in placing it properly and taking their name and the charge and billing it and sending it to the composing room. On the ads where they are solicited by the girls it is the same general procedure, it is the same procedure, only they are trying to solicit business. They are soliciting in reverse to being a voluntary call. The advertising with the two outside sales people that go and make personal calls on prospective advertisers, placing the ads is the same procedure. It goes through the composing room in the same manner.

Q. As far as employment opportunity ads are concerned, do your ad takers have the discretion to

place jobs in any particular column if the advertiser does not express any preference?

A. No, sir. Most of the people who call in have a preference. Let's put it this way. They know where they want the ad to run—automobile or real estate or male interest or female interest. They express this interest where they would like to have this ad placed. In what category. At times, when they do not express a preference, we ask them where they would prefer to have it placed.

Q. If the advertiser clearly expresses a preference for male or female, the Press abides by the preference expressed by the advertiser?

A. Yes, but there is a little difference here. If somebody asks to place a help wanted ad under automobile advertising, we will not accept it. It has to run under help wanted. It's a job offering. It's run under opportunities.

Q. When no preference is expressed by advertisers, you then solicit from the advertiser a response to whether he has a preference?

A. Yes, where they would prefer to have it placed.

Q. In case there is no preference expressed, even after solicitation, who then at the Pittsburgh Press decides which column it goes in?

A. I don't think we have this problem, really.

Q. In each case there is an expression of preference by the advertiser?

A. Yes.

Q. Do the ad takers guide the advertiser's phrasing of the ads?

A. This is part of their job to assist the caller to maybe eliminate some words or line to help cut the cost,

to put it in to the best advantage to the advertiser and to make it clear to the reader what they are advertising for. This is the main purpose for the girls' help.

Q. In rendering this guidance, does this not help to guide the ad into column "male" or "female," which would get the advertisers the best results.

A. Well, this is what we are interested in, the best results for the advertiser and the reader. This is our business, to get the best results for the advertiser and reader. This is the nature of the business.

Q. In an attempt to get the best results and offering the guidance and phrasing of the ad, does not the ad taker herself exhibit some guidance to the advertiser by suggesting which column would bring the best response?

A. Well, I think they are more interested in listing, starting the jobs with job titles to get them under the proper job categorization. I don't think they lead them that much. They help them in phrasing the ad, but not determining which class they are to run in.

Q. Can you tell me how many employees you have as ad takers and the breakdown as to how many are female or male?

A. Ad takers, 40, daylight. This would be normal hours, 7:30 to 9:00 through 6:00, and these are female. We have nine male ad takers who work at night. This is from 6:00 till 10:00 or 10:30. We have also the outside sales. We have thirteen outside salesmen.

Q. In the process of ad taking (the procedure and the system) who is responsible for laying down the

rules as to procedure in ad taking, answering the phone, and so forth?

A. This would be my responsibility, in the end, I would say.

Q. Does the system, as it exists, suggest to the ad takers that they inform the advertiser an expression of preference without a bona fide occupational qualification may be violation of the Pittsburgh ordinance?

A. Would you repeat that? I didn't get the question.

Q. In accepting ads, whether they come in voluntarily or are solicited before the actual make-up or during the actual make-up of the ad at any point, does the ad taker inform the advertiser that an expression of preference without a bona fide occupational qualification in accordance with the fair employment ordinance may violate the law?

A. No.

Q. Do you ever receive ads through the mail that do not specify a preference? Assuming that were the case, what would the reaction of the ad taker be?

A. If there is time, we telephone. We receive quite a bit of advertising through the mail. Most of it comes from advertising agencies throughout the country, California, and throughout the world, in fact. These people specify what classification they want their ads run under. There are times we receive ads—I do not remember any that specifically did not suggest, state the classification they want it under.

Q. You don't recall receiving a written order for an ad that did not specify male or female?

A. No. I can't say that I do, because I don't receive the letters myself. They come to a clerk who processes them.

Q. If such a request was received, is there something in your present guidelines that would permit the ad taker to act one way or the other as to where the ad is placed?

A. If there is a question about where the ad is to be placed, we will not place it until we find out where they want it, either a phone call or letter. If it's a call and it warrants the expenditure, we will call California.

Q. Your answer is, as I interpret it, that the Press never runs an ad without the advertiser first expressing a preference? And, in the absence of an indication of preference, you don't run the ad?

A. I can't say we never do, because we have so many employees, almost a hundred employees in our department. And I can't say that it would not accidentally happen. But our policy is not to.

Q. Your policy, then, as I interpret your answer, is to act in accordance with the expressed preference of the advertiser?

A. Right.

Q. As to which column it would appear under, that is, male interest, female interest, male-female, situation wanted—male, situation wanted—female?

A. Yes. However, I don't think that "situation — male or female" applies at all in help wanted.

Q. You don't have a situation wanted without the designation "male" or "female"?

A. Yes, we do, "situation wanted—male," "situation wanted—female."

Q. You don't have a column that states situations wanted and nothing else?

A. No.

Q. You don't have a request or any need for any such a heading that says "situation wanted"?

A. No, because these are individual people that are looking for jobs. I don't think it's necessary, really. A man or woman applying for a job knows if he is a man or woman, I would think.

Q. Are you aware of the anti-discrimination portion of the Pittsburgh ordinance as it relates to employment?

A. I am familiar with it.

Q. Are you doing anything to enforce these laws or taking any action to educate your advertisers as to the law?

A. We were asked by the Human Relations Commission to do several things, which we have tried to do. And I think we have been quite successful.

Q. If I were to send an ad by mail, that is a letter ad, to the Press saying "social worker, M.S.W. degree, available immediately, call 777 or whatever telephone number, and enclosed the proper fee for running the ad, how would your ad taker handle it?

A. This is under situation wanted, And you signed your name?

Q. S. Valadez.

A. We will check to see.

Mr. Volk: We are going to object to this line of questioning. It is the help wanted ads under complaint, not the situations wanted ads. I don't think any line of inquiry as to the situations wanted is relevant to the scope of the complaint, taking

the complaint even the way the complainant wants to take it. Not only that, the law doesn't address itself to people expressing a preference; it addresses itself to employers. The only persons who can discriminate under employment is an employer, not an individual.

The Chair: We will note your objection, but we will deny it, sir.

Please proceed.

Q. Do you want me to repeat the question?

A. Yes. Was there a question?

Q. I think it was, to the best of my memory, if I were to send you by letter an advertisement to place in the situations wanted and enclosing proper fee saying, social worker, M.S.W. degree, available immediately, call, and give telephone, and sign my first initial.

A. We would call you, if we could get a hold of you, or write you a letter and find out where you would prefer to have it.

Q. And, in the event you were unable to reach me, what would your action be?

A. At times, we might put it under one or the other, depending how significant. I think I know what you're driving at. Maybe I can save a lot of time for you. You are talking about a particular situation wanted ad for a chemist, placed by DuWayne and Jean Witter. And we placed it under situations wanted—male. Correct? After that, we got a letter from DuWayne and Jean Witter that we placed this ad under the wrong classification. We understood that DuWayne was placing the ad, not Jean, and I

think this would be normal assumption. However, it doesn't apply to the help wanted at all.

Q. Well, you are talking about employment opportunity and sex segregation and the alternatives that the public has in utilizing the facilities of the Pittsburgh Press. The facilities are limited by the Pittsburgh Press and allow the public to use the facilities of the Pittsburgh Press. It's indicated that the letters came to you as you stated, signed by both DuWayne and Jean Witter; is that your testimony?

A. I don't think it was signed by anybody. There was a tag at the top of one of those address labels. I don't think it was signed.

Q. The point I am trying to get is, how would it be classified if it were?

A. It was a trap, a plant. It was done at the exact same time the hearings started in October, or November. I forget which. The letter did not come to me but through our regular system, through a clerk that places these ads. There was no question in his mind that it was DuWayne Witter.

Q. There was no question in his mind?

A. That it came from DuWayne Witter?

Q. You received the name DuWayne Witter, or it wasn't signed?

A. It wasn't signed.

Q. The return address on the envelope was DuWayne and Jean Witter and it's your answer it was a natural assumption it was received from DuWayne Witter?

A. That would be my assumption.

Q. And this assumption is based on what guideline that it comes from DuWayne Witter?

A. Because that was the first person's name on the return address.

Q. And if the address read, Jean and DuWayne Witter? Would the natural assumption be it came from Jean Witter?

A. That would be natural.

Q. And he would have run it under situations wanted —female? You have a guideline that says it should be run on the first name if received with no signature?

A. We have no guideline. We just think it's common sense.

The Chair: May I ask one question? This ad was for what position?

A. If it was the same ad the attorney is talking about, it was for a chemist.

Q. From your position with the Pittsburgh Press, are you in a position to tell me what is the revenue to the newspaper from advertisers, as opposed to, say, circulation, not the dollar figure, just the percentages to compare classified advertising revenue to other advertising revenue?

The Chair: Excuse me. Please, would you repeat the question. The reporter has difficulty hearing you, sir.

Mr. Esper: We withdraw the question. No further questions of this witness.

Mr. Volk: We are not going to cross examine this witness because he will in all probability form the corner stone of our own defense, and we would rather put in our own defense in our own way rather than attempt to do so by countering the tes-

timony that was brought out by complainant at this time.

Rev. Johnson: I wanted to ask the question. Did I understand you to say that the Press does advise people who call in, or does not advise people who call in, whether or not they are in violation of the ordinance the way they place the ad?

A. No, the question, I think, Reverend, was, do we tell them? The question was different from your question.

Rev. Johnson: Let me ask it that way then. Maybe the questioning here is a little confused. I was wondering whether or not you did advise a person when they called in whether or not when they made the request whether it was to go into "male" or "female;" that it was in violation of the ordinance. It pertained to some line of questioning here.

A. We don't tell them where to place the ad and don't advise them where to place it.

Mrs. Reizenstein: How long have you held this position with the Press.

A. This immediate position as classified manager?

Mrs. Reizenstein: Yes.

A. Three and a half years.

Mrs. Reizenstein: During that three and a half years, have people asked for a preference due to race, religion, national origin?

A. No.

Mrs. Reizenstein: Never in the three and a half years?

A. No.

Mrs. Reizenstein: Do you ever recall either City or State Commission advising you as to having put in an ad that might have slipped in inadvertently?

A. Yes.

Mrs. Reizenstein: What do you do then?

A. Then we take it out. If it has gone in inadvertently, as you say, Mrs. Reizenstein, and we do attempt to watch this—sometimes it does go in, but to the best of our ability we try to keep it out.

Mrs. Reizenstein: But you see a difference now as regards the law as to sex and anti-discriminatory parts of the act relating to race, color, national origin, and religion?

A. Back in September, I think it was, Mrs. Reizenstein, we met with the Commission and they asked us to take the "man" and "woman" out of the individual ads; that they felt this was the proper way to do it. And we agreed to do it.

Mrs. Reidenstein: Would it be simpler, do you think, in performing your duties, if it were all simply filed and put in without the headings "male" and "female"? As I gather from what you are saying, it is.

A. Yes, it would be simpler, but it is not in the best interests of the reader or advertiser. These are

the people we are appealing to— the advertisers and readers. These are the people we have to take care of.

Rev. Johnson: Did you say that if they did not specify whether it was to go under the male or female column, that you asked them?

A. Yes.

By the City Solicitor: I gather from the testimony here that if an employment agency sent in an ad and specified "male interest" you do not advise the agency as to the ordinance involved here? You just take the ad and insert it in that portion?

A. Yes, sir.

Q. And at no time then does the Press make any judgment as to whether a particular ad does or does not violate the ordinance?

A. No, on that particular—On placing and positioning the ads, no.

Q. Do you make any judgment as to the content of the ad?

A. Yes, we may tell them about the Human Relations Commission's request that "man" and "woman" not be placed in the individual ads, and they conform to this at our request.

Q. Only to that extent, to make a judgment?

A. Yes, sir.

The Chair: Thank you very much.

Mr. Esper: Elizabeth Koontz.

MRS. ELIZABETH KOONTZ, having been called as a witness on behalf of the complainant, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF MRS. ELIZABETH KOONTZ

By Mr. Esper:

Q. For the record, will you give us your name and address?

A. My name is Elizabeth Koontz. I live at 1830 16th Street, NW, Washington, D. C. At the time my voting residence is still 418 South Caldwell Street, Salisbury, North Carolina.

Q. What is your profession, Mrs. Koontz?

A. By profession, I am a teacher. At the present time, a government employee.

Q. In your profession as a teacher, were you affiliated with any professional groups involving the educational field?

A. Yes, I belong to the local association in North Carolina, the National Educational Association, as well as the Council for Exceptional Children.

Q. Have you held any other positions with the National Educational Association?

A. Yes, I was president in 1965-66 of the largest division, the division of classroom teachers, and until February 1969 I was president of the National Educational Association.

Q. National president?

A. Yes.

Q. Your present employment is with the government?

A. Yes, as Director of the Women's Bureau of the Department of Labor.

Hearing of January 15, 1970.

The Chair: Excuse me, Director of what bureau?

A. Of the Women's Bureau of the Department of Labor.

Q. What is the function of the Women's Bureau of the United States Department of Labor?

A. By the enabling act, a Congressional action, the Women's Bureau was established to promote opportunities for women in employment, returning women to work for voluntary organizations, to promote improved status for women, and to recommend policies concerning their employment.

Q. In the evolving of policy recommendations, have you had opportunities to consider statistics and other data that appear on questions of women, sex, and sex discrimination in employment?

A. Yes, very much so. And as an agency we are the bureau within the federal government that passes on the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance, and any other agency of government concerned with employment, the fact that there seems to be discriminations against women. But we also take facts, data and documentation from the Bureau of Labor Statistics and try to interpret that data in the light of what seems to be prevalent across the country.

Mr. Volk: Before we go on—I know it will be futile, but I am going to renew my objection for the record, to the relevancy of this broad-based ethnological, sociological discussion that we were treated to yesterday. I feel this line of questioning

is addressing itself in the same direction. So I would like the record to note my objection to it.

The Chair: The objection will be denied and noted for the record.

Q. Mrs. Koontz, will you comment on the findings and recommendations that have arisen out of these studies as far as they pertain to, that is, from the Women's Bureau, insofar as it may relate to the matter of sex discrimination, and if you have any specific findings insofar as classified advertisements. And also further comment, I will just pass the question all at once, if in your opinion, any of your findings sustain the comment that it is valid to compare discriminatory racial preferences in the different job interest classifications and classification between men and women?

A. I should say before I came to the Bureau as a Director there had been a great deal of activity and investigation into this matter. Since I have been with the Bureau, we serve with EEOC, the Equal Employment Opportunity Commission, on this very matter. It was the determination that this was discriminatory, the same way racial deliniation was, and EEOC issued guidelines that this be observed. And that in the face of jobs and the descriptions now for jobs, the influence of technology on jobs, there was no longer any need for this kind of deliniation. From further study, however, that this kind of discrimination is following the same pattern as that which was our main course in racial discrimination, from the standpoint that as long as "colored" remained in the ad, it could be argued

that one had the right to apply. But there was a kind of inherent, builtin understanding of those involved in the process that said, or was understood without being said, that colored would not be considered. This was removed after a great deal of litigation. It would appear the same occurs in the matter of sex. We have cases of discrimination referred to the Women's Bureau and, on the face of it, that the onus is on the individual to make the complaint and pursue it through court, there seems to be a rather understood kind of thing implied by the very deliniation. It is our feeling in the Women's Bureau that categories of jobs would better suit and would better serve the public and would remove this discrimination. There are some instances. I cannot state them specifically. I know of a newspaper that believed there would be a decrease in its advertising if it were done in a single line fashion. And, in this instance, it was proved that there was an addition of eight inches of lineage, as a result of the change. Basically, I think it is a case of what it does to the individual. As in the case of racial discrimination it presupposes one does not have the intelligence and that one does not have the interest. But that is being determined by someone other than the individual who would make that choice. And we see this as one of the most detrimental factors in the matter inasmuch as one can be conditioned to know that he need not apply. So to avoid the embarrassment and to avoid, I think, the degradation that goes with it, there is a limitation to what one does apply for. So that if it does no danger, as we see it, to the job and there is no such feature, no re-

quirement, really, that one could say was different, then it would seem to be discriminatory. And EEOC has determined this. OFCC is now setting its guidelines in line with this kind of thing.

Q. Are you affiliated in any manner with the United Nations or a United States Commission or any agency that is affiliated with the United Nations?

A. Yes, I do serve as United States delegate to the U. N. Commission on the Status of Women.

Q. How does the concern of the Commission on the Status of Women—

Mr. Volk: I am really going to object. We came here initially to discuss an alleged violation of an ordinance of the City of Pittsburgh. Testimony was given as to the state of Pennsylvania, and we have been treated to a long treatise, in fact the bulk of testimony, pagewise, pertains to the policies of the government of the United States of America. Now we have to listen to the world, yet. I suggest if we can't keep ourselves to Pittsburgh, we at least keep ourselves to our own nation.

The Chair: I will call a two minute recess. I would like to consult with both counsel.

(A two minute recess was then had.)

The Chair: Mr. Counsel. Excuse me. You better withdraw the previous question.

Mr. Esper: I withdraw the previous question.

Q. Mrs. Koontz, do you have any evidence of any relationship between these practices of sex segregated newspaper advertising and the training of girls or women in secondary schools?

Hearing of January 15, 1970.

A. Yes, I do. As a teacher in the secondary schools, when there were programs for training offered, there were limitations placed on the number of girls who would be involved simply because of the lack of availability of future employment, and it was declared, in a sense, on the matter of the attitude of employers toward the employment of women and girls, so that it affected the training programs and availability, and, in effect, served as a quota system for their involvement in certain kinds of programs available with public funds. I think this in itself bears out what I was trying to say, in that it is inherent in a kind of declared system that's not always verbalized but is rather implied or understood which has the same effect as being verbalized.

Mr. Esper: Cross examination.

CROSS EXAMINATION OF MRS. ELIZABETH KOONTZ

By Mr. Volk:

Q. You mentioned the EEOC guidelines. You are aware of the off-again, on-again status of the EEOC vis-a-vis segregated want ads, male and female?

A. I am not aware of the on-again, off-again, but I am more aware of the change in the action on the situation in employment that exists and increased population of women that have made them take a further look in the face of evidence.

Q. You are aware that at one time, for a considerable period of time, the EEOC said in its guidelines that the brief way, an explanatory box such as the Pittsburgh Press has, was preferable?

A. At one time, I think, we have had positions on a lot of things that have changed on the face of evidence.

Q. Was it evidence or political importuning of Women's organizations?

A. I am sure it was evidence that the records would show from the hearings of the OFCC, from which the EEOC gained its insight.

Q. The records of the OFCC? The OFCC held hearings?

A. Yes, in August of this past year.

Q. I believe the EEOC guidelines were changed before that.

A. They were not changed until December 1st of 1969. The EEOC guidelines were issued following that.

Q. Of what year?

A. This past year.

Q. That's simply untrue. The EEOC guidelines, prohibiting sex classification by sex—

A. BFOQ, with that inclusion. The December 1st guidelines. I thought this was what you asked.

Q. Mr. Stickle believes they were in December of 1968.

A. This is 1970 and I was not there in 1968. This has been a very recent development in the EEOC.

Q. I have been familiar with these guidelines for over two years that I personally know of.

A. I am sorry that I do not have a copy of the document to give you.

Q. They may have reissued the guidelines but EEOC's methods of proceedings are weird and wonderful at best. But I do know the guidelines have been in effect for several years.

A. I think you would agree, however, that it has been under these circumstances as groups of citizens have been concerned about issues that have brought about changes in guidelines, which I think is a re-

sponsibility of government, which is to respond to the needs of the people.

Q. In fact, the law hasn't changed at all, has it? The Civil Rights Act of '64 is still the law. It has not been altered in this regard. Title VII is the same as it was in 1964, is it not?

A. I think the fact that we have eliminated a great deal of racial discrimination as a result of its interpretation is an indication also of the need for change in the interpretation of sex as well.

Q. The guidelines interpret the law, and the law itself is the same; that's a fact, is it not? If you will limit your answers to my questions I will appreciate it a lot.

A. I think you have answered the question by saying that the interpretations do change.

Q. But the law itself does not change.

A. No, and the law does prohibit discrimination by sex.

Q. Do you know whether the EEOC guidelines are directed at newspapers or employers?

A. I think as the evidence of the hearings indicated, there is weight on both. However, the evidence of the hearings—

Q. What hearings?

A. The hearings of August 1 through 4, I believe.

Q. That was the OFCC, was it not?

A. Yes, and from that was this evidence that was presented.

Q. That has nothing to do with the Equal Employment Opportunity Commission, does it? The OFCC is the part of the executive department of the government dealing with federal contract compliance appointed by the President. The EEOC is a commission oper-

ating under the Civil Rights Act of 1964. It is not the same thing at all.

A. It was your reference to EEOC and the change of attitude about it that brought it into the discussion.

Q. I asked you about the EEOC guidelines.

A. Yes, it was your reference to it that brought it in. You referred to its wavering, if I understood your question—

Q. That was my first question. I have asked several questions since and you continue to answer the first one. Do you recall that the EEOC guidelines as they exist, not the OFCC nor the Women's Bureau nor N.O.W., but the EEOC guidelines address themselves to discrimination by employers and do not address themselves to newspapers? If you do not know the answer, please say you do not know.

A. I am afraid we are not talking about the same thing. You did not seem, sir, to be aware of the issuance of any guidelines after the period that you spoke. And since I do not have a copy here with me, I cannot present them as evidence of what those guidelines said.

Q. I am examining you, ma'am. You are not examining me. If you don't know the answer to my questions, I would appreciate it if you would simply say so.

A. The guidelines were changed in their interpretation by the EEOC.

Q. That wasn't my question. My question was, do the guidelines as they exist or as they once in the future existed, address themselves to newspapers?

A. Yes, they do to the help wanted ads.

Q. Do you know what it says?

A. I cannot quote, and I do not have it here, so I would

prefer not. I might add, sir, that it does, it does deliniate an interpretation of the of the BFOQ which was in effect before, and it does remove that kind of qualification.

Q. You mean there is no longer BFOQ?

A. It has been debated out. As you say, EEOC does not have enforcement power, but it does give further deliniation of that qualification.

Q. I want to make one thing very clear, that you are contending to us that the Equal Employment Opportunity Commission issued a guideline on newspaper advertising or including newspaper advertising last month, December, 1969?

A. Yes, following the August hearings of the Office of Federal Contract Compliance, held in August, and I believe the dates were 1 through 4.

Q. Who held the hearings? What was the panel comprised of? Who was on it?

A. The Office of Federal Contract Compliance held the hearings. Present on it was the Commissioner of the EEOC, Mrs. Olivarez, Mr. Robert Moran, who is head of the Wage and Hour Division, and Elizabeth Koontz.

Rev. Johnson: What was the last name, please?

A. Elizabeth Koontz.

Q. And how was this commission convened? For what purpose? Who directed it to be held?

A. The OFCC.

Q. I have nothing further.

Mr. Esper: No further questions of this witness. Thank you, Mrs. Koontz.

The Chair: Thank you very much. The witness is excused.

Mr. Esper: At this time, the complainant rests its case, subject to the future for rebuttal, and we reoffer the exhibits introduced yesterday as evidence.

The Chair: I think yesterday there were exhibits offered as big charts and they were passed to Mr. Volk. And this will be Complainant's exhibit 4, which are reproductions of the charts shown.

It is ten after twelve. Do you care to make your statement now? I think we will save time.

Mr. Volk: Yes. My statement is going to be very brief because our prior arguments and the brief of the amicus addressing itself to our preliminary objections has already been made and I do not wish to burden the Commission with redundancy. I think the Commission has been burdened enough with irrelevancy and I don't want to burden it with redundancy.

We have failed to see how even in the most flagrant procedural abuse, if we concede that flagrant abuse occurred (I am sure nobody does) and the complainant was permitted to make his complaint through evidence rather than through the defective and totally incomplete document which constituted the complaint. There still was no adequate violation of the ordinance of the City of Pittsburgh proven in the following two days of testimony. As a matter of fact, after listening to the witnesses, particularly, I might add, the last one, I don't have the slightest idea what they are talk-

ing about, let alone how that constitutes a violation of the ordinance of the City of Pittsburgh. And I contend that what has been demonstrated is exactly what we have talked about in one of our preliminary objections, and that is that our sin appears to be a failure to recognize and comply with the sociological concepts of the National Organization for Women. That is not yet a crime, as I pointed out previously. The proofs, if one may dignify them by that title, which were adduced here in the last two days, proved nothing other than some women feel that help wanted advertisements broken down into any form of "male" and "female" categorization constitutes an evil which should be remedied. They may be right. I personally don't believe they are. But if they are right, that is a matter for the legislative bodies, not for the Human Relations Commission of Pittsburgh, whose duties are to interpret and enforce an ordinance of the City of Pittsburgh which prohibits discrimination in employment. We don't believe that they have made any case that shows that the Pittsburgh Press has discriminated in employment, and we don't believe they have made any argument that the Pittsburgh Press has aided and abetted anyone else in violating the ordinance of the City of Pittsburgh. I suggest they seek to have this law passed through the proper channels, which would be an an appeal to the City Council of the city of Pittsburgh or to the state of Pennsylvania, the State Legislature of the state of Pennsylvania, to have a law passed prohibiting the segregation of want ads in any manner and deliniating for the edifica-

tion of the newspapers exactly how they can legally present them.

I do not believe the proofs here, should they even have been able to prove such a violation on the part of the Pittsburgh Press, were directed toward such proofs. This was a showcase trial, conducted apparently to obtain publicity for the National Organization for Women and their aims. It did not address itself to the violation of law. It did not address itself to the ordinance of the city of Pittsburgh. It addressed itself to just what we feared yesterday, a rather disappointing mishmash of psychology, pseudo-psychology, sociology, pseudo-sociology, and the mores of New Guinea natives. It did not address itself to the ordinance of the city of Pittsburgh. And we contend that, since no violation was introduced before this body, that the complaint against the Pittsburgh Press should be dismissed forthwith.

The Chair: We have ruled on your motion before and we denied it. Now do you intend to present any witnesses, any rebuttal?

Mr. Volk: Yes, of course. We have, however, procedurally a double motion. We originally asked that the trial be dismissed preliminarily, and that was denied. Now we renew, of course, that objection, that motion. But, in addition, we also state that the Commission, or that the complainant have not proved a pima facie case and we then rule that even having been permitted to put on their case, agreeing with everything they said, they didn't prove a violation of the ordinance, and the ordinance, after testimony, should be dismissed. There

is really a double motion there, we are not merely renewing our first motion. However, should you overrule our current motion, our second motion, then we would request adequate time to prepare a defense to the testimony which was introduced and to present that defense at a later date.

The Chair: Based on my knowledge of procedure, the first part of your motion was in the nature of a demurrer, right?

Mr. Volk: Yes. It is typical at a trial at the conclusion of complainant's case, if you don't think they made one, you make such a motion.

The Chair: As to the first part of the motion, we deny your motion. As to the second part, we are willing to grant you an adequate amount of time, say two weeks or so, for preparation of the defense. And, at a time convenient to both parties, we will reschedule that portion of the hearings.

At the suggestion of the City Solicitor, we would request both parties to present, hopefully, by that two-and-a-half week period or so, a brief memorandum of law on the fact of the city ordinance, the law of the Commonwealth of Pennsylvania, and the law of the United States, insofar as applicable.

Before I recess this hearing, a number of amicus curiae asked to submit briefs and make oral arguments. Consequently, after this meeting will be reconvened, which will be about 1:30 or so, such amicus curiae as want to make a brief oral statement and submit their briefs may do so with the understanding that if after the completion of the

case of the respondent and the rebuttal, if any, by the complainant, if the amicus care to make additional oral statements or submit additional briefs, they may do so.

Mr. Venable: I think I speak for the amicus curiae who are siding with the Pittsburgh Chapter of the National Organization for Women in stating that we do not wish to present our amicus briefs now but will wait until the end of respondent's case.

The Chair: How about you, sir.

Mr. Stickle: Mr. Chairman, just after the hearing adjourned, we submitted a brief. I would like the records to reflect it has been filed, if that is possible. We submitted an original and two copies. I believe I circulated copies to all the other interested parties. If they have not received one, I have copies on the desk here. I would be happy to argue at any point the Commission would desire.

The Chair: What would be a convenient point for you to argue, may I ask?

Mr. Stickle: It would be convenient for me to argue after we return from lunch or after the respondent has put in his case. If the Commission would prefer, I would perhaps prefer to argue at both times.

The Chair: In that case, the hearing will extend recess until about, say, 1:40, which would give enough time for people who want to have lunch to come back. Would that create any transportation problems, Mr. Stickle?

Hearing of January 15, 1970.

Mr. Stickle: Would you indulge me for one moment please?

The Chair: Sure. Would you prefer an earlier time?

Mr. Stickle: Mr. Chairman, let me withdraw that offer for argument. Since I would appreciate to argue at the end of the case, perhaps that would be best.

The Chair: In that case, this hearing extends adjournment for about two and a half weeks, for the date to be announced to all parties, convenient to the counsel for both complainant and respondent.

Hearing of February 12, 1970

THE NATIONAL ORGANIZATION FOR WOMEN

VERSUS

THE PITTSBURGH PRESS

THURSDAY, FEBRUARY 12, 1970

The Chair: Mr. Volk, it's your turn.

Mr. Volk: Thank you, sir. We find that our defense will be relatively brief, and limited. At least I trust it will be, although one can't tell about these things until you begin. I assume that a brief opening statement is called for. I don't intend to make a formal argument by way of opening statement. A lot of arguments have been made so far. I said at the last hearing I don't want to compound irrelevance with redundancy. Today, our defense will consist exclusively of two witnesses, the first of whom will be Robert Seli who you have heard before, when he was called by your opponents. Bob is the advertising manager of the Pittsburgh Press, and he'll give us some facts on the Press advertising policies handling it, and advertiser-reader preferences and interests as he knows them to be. And then we have a psychologist with us who, I trust, will clear the air on some of the testimony we were privileged to hear at the last hearing concerning the differences between men and women and the lack of them. And essentially what we all know, but apparently have to reprove to ourselves, that women and men do have substantially different interests in occupation and in employment patterns, and these interests are legitimate ones, and that they may prop-

erly be appealed to by employment agencies and by newspapers in classifying their advertising by jobs of male interest and jobs of female interest. And with that I think we will rest our defense, relying, supplementarily, on the arguments that we made at the previous hearing and arguments which I trust we will be permitted to make in a post-hearing brief on the technical or legal objections which we previously raised to this whole proceeding, and secondly to proofs introduced by the complainants, and thirdly to our right to continue to do what it is we are doing, over the objections of whatever dissident group cares to challenge. In essence, that it is not improper under any laws to classify our advertising in the way we are now classifying it. So, with that, I think I would like to call Mr. Seli to the Stand, if I may?

DIRECT EXAMINATION OF ROBERT SELI

By Mr. Volk:

Q. Would you state your full name and your job, Bob?

A. Robert Seli, Classified Advertising Manager of the Pittsburgh Press.

Q. What is your job background?

A. I worked for the newspaper for—I'm in my twenty-ninth year now. I started in classified advertising in 1941, and I was a salesman when I left there in 1951—I went to retail advertising. I remained in retail advertising as a salesman for fifteen years, 'till I came to the job of classified manager in 1966, in July.

Q. And that is your current position? What are your job duties as classified ad manager?

A. It is supervising the advertising that is handled by the classified department, which includes all the classified advertising, from death notices up to and including automobiles, real estate, garden advertising, legal advertising — all legal advertising in the newspaper is handled by the classified department. And its supervising employees, and trying to get more business.

Q. And as such you deal with advertisers, employment agencies, and so on. I requested that you have some statistics on your help wanted ads, from the Pittsburgh Press?

A. Yes.

Q. Why don't we discuss them for a minute—the number of ads annually, where they come from, and so on. How many ads or lines of ads do you have a year?

A. Well, this last year, 1969, we ran 248,000 help wanted ads, individual ads. This is daily and Sunday.

Q. What percentage of your ads comes from employment agencies?

A. Well, the total of help wanted lineage is about three million a year, and approximately twenty-five percent comes from employment agencies.

Q. What are the meanings of the the words "general" and "local" that you use?

A. Well, we have local advertising rates and general advertising rates. General advertising rates apply to those advertisers that are outside the fifteen mile radius of the City of Pittsburgh. Every newspaper uses this system and some of them have

different boundaries of where they start the general rates.

Q. Could you give us a breakdown of your advertising as to local and general?

A. The, as I said before, twenty-five percent of the help wanted comes from the employment agencies, at least twenty-percent comes from outside the fifteen-mile area of the City of Pittsburgh and all across the United States included in there. Thirty-five percent of the classified help wanted advertising comes from outside the City limits but inside the fifteen-mile area.

Q. Making a total of how much comes from within the City limits, in your opinion?

A. I would say twenty percent of the advertising comes out of the city, plus the employment agencies, which is twenty-five percent. But the problem with employment agencies, they're not looking for jobs for people within the city entirely, so this is where the advertising originates but this isn't where the job offer comes from.

Q. So that forty-five percent—this may involve advertisers from within the city at least a substantial proportion of that involves jobs that are not within the city.

A. Right.

Q. You are unable to tell us exactly?

A. No, because I don't know where the job opportunities are coming from.

Q. Can you give us your best estimate of what percentage of your wanted ads or lineage, whichever, comes from employers of less than five people?

A. Well this would have to be an educated guess. We'll have to talk of it in terms of ads instead of lineage because naturally smaller employers do not use large lineage.

Q. You don't have the exact statistics?

A. I don't, but it would be about, I'd say, fifteen to twenty percent.

Q. Of your total advertising?

A. Of our total classified advertising, by people with less than five employees.

Q. Now tell us how your ads are placed — there was some confusion about that at the last hearing. I don't know how relevant it is, but as it was confusing let's touch on it again. What percentage of your ads are received by telephone, Only help wanted ads.

A. I would say about sixty percent of our — maybe seventy, seventy percent of our lineage would be received by phone. The balance would be by mail, or solicited—we have two salesmen downtown that call on employment agencies.

Q. Who generally selects the classification under which the ad is classed male or female? How is this done?

A. We have to, more or less, ask the advertiser to select this, because we get in a bind if we don't. If we place an ad where we feel it should go the advertiser will call us and say, well, I didn't want the ad there. So we actually ask the advertiser where would you like to have the ad put. So they make the decision really, so we are not liable. We do not have to pay for the ad.

Q. There are exceptions to this?

A. Oh yes, there are going to be some mistakes, and we make enough of them.

Q. What policing do you do of your ads?

A. There are many different types of policing, but one of the main things we have to do is watch, in particular, in sales ads. We have a regulation of our own—this is not a federal regulation, or state regulation — we insist that the advertiser state what type of sales job its going to be and what the basis of remuneration is. The reason we do this is so people don't have to run hither and yon to find the job they want or go to the job and find its not the sort of sales job they had in mind, or its a misleading ad. The main job is to try and keep the ad truthful and stay away from being misleading. This is where our readers come into it. We get many complaints when ads are illegal—they're illegal if they're not truthful.

Q. May I ask that I inject a question. How many complaints to your knowledge have you received over the year from segregating your ads by sex?

A. We have no records of receiving any up until this hearing started. At the end of October I think we had a hearing. At that time we received nineteen or twenty complaints. They were all connected with the NOW hearings at that time. Some of them were duplicates too.

Q. Some of them were familiar names?

A. Yes, familiar names.

Q. Names connected with NOW?

A. Yes, a husband and wife and . . .

Q. Until then, you received no complaints?

A. Nothing.

Q. Even though you get complaints about other aspects?

A. Yes.

Q. What policing do you do of employment agencies? How are they policed when they put in their ads?

A. Well, employment agencies are regulated by the State, are licensed by the State. So we try not to police them or get into the policing business. This isn't our job. But the State has asked us to watch these things; you know, do some things for them, on which we cooperated with them. But the main job that the state does is trying to make sure that the employment agencies have an actual bona fide job offer. This is the main reason. When we get a complaint from a reader that says, look, I replied to this particular ad and they didn't have this job. So we call the State immediately and report this and they investigate. The licensing agency checks to see that the employment agency has a legitimate job offer. When it comes to policing, we try to work, we carefully work with the Human Relations Commission here in Pittsburgh. We've worked—

Q. That's another subject I want to get into a little later. I'll go into that in some detail, as to your dealings with the Human Relations Commission. Our argument has been, that placing ads the way we do is a convenience primarily to our readers and to our advertisers. Would you care to comment on that? The inconvenience of lumping the ads to the newspaper, would it be an inconvenience to the newspaper to lump their ads in a single unit?

A. This would be the easiest way for us to place advertising — would be to lump them all as one unit. In

fact, I think you will notice that many weekly newspapers, they do this — they lump all their ads together. Automobiles, miscellaneous, or anything. It would be much simpler in the help-wanted to just have one classification; but it's not convenient, it's not for the benefit of the reader, it's not for the benefit of the advertiser. It would save money, really, I feel, if we lumped it all together.

Q. What inconvenience would it be to the reader? Based on your knowledge as an expert in this field. I realize this is speculative testimony, but speculate a bit.

A. I think in many instances it's a hardship. I'm not talking about a person that has a particular job and he wants to better himself, wants to get a better job. He's working. But the way I feel is for the person who is out of a job, who is looking for employment, and needs employment — when we do not classify the ads by job interest, by sex interest, really, of what the job is going to appeal to, who the job should appeal to — that we can have a, say, a man or a woman travel the way across the city to apply for a job and that she finds that this job is not what she wanted, its not in the proper atmosphere that she'd like to have. Whereas if you say its of more interest to a man or a woman, then in particular fields I'm going to have a good chance of being hired for this job. But why get me out there, and I'm not even interested in the place. This is a hardship — its carfare, its busfare, its time, its waste.

Q. How about the advertisers? They seem to like it. Do you know why is that?

A. It's the way they get results.

Q. Tell us about that.

A. In classified advertising the main thing is reader interest and reader response. We appeal to the readers. If the reader reads our ads or if he follows them then the advertiser will get results. If we don't create it so the reader can easily disseminate from the different ads and read them and, you know, go through them by categories — like automobiles and miscellaneous, and help wanted male and female and so forth — if you don't have this they will lose reader interest; it will lose results; the results will be poorer for the advertiser and in that way we lose money.

Q. Give me an estimate as to the response ratio to the male-female column, the one where they're all lumped together.

A. Just from comments from different people they don't get results; they don't get as many answers to an ad under male-female as they do under male interest or female interest separately. They do not get it that way.

Q. Have you had any advertiser objections to your neuter ad bodies that you have been working on? Salesperson instead of salesman, or as I saw in an excerpt from a magazine somebody sent me, cowperson instead of cowboy — to show the baroque extent to which some of this has gone — when you have used these neuter ad bodies have you had any advertiser reaction?

A. Very, very much. It's mostly — we have it in the city. It takes us a while to do this; they're not aware of how we are trying to cooperate with the Commission in taking sex out of the particular ads. We have changed like "salesman" to say strictly

"sales" now. The biggest problem though is the out-of-town advertiser. They can't see why they have to do this when they are not under the law or under our regulations or under our Commission. Why do I have to say "sales" rather than "salesman"? We've lost advertising. I know of a couple of instances where I've talked to the particular men because they've talked to our clerks or salespeople and they've said I'd like to talk to the manager because this is ridiculous and I've said we can't accept it this way — anyway other than sales — and they said, forget the ad.

Q. As a matter of fact you can insist on the policy you worked out with the Human Relations Commission as a matter of accommodation. Now is an appropriate time to talk about our efforts to do so. Tell us about the Pittsburgh Press's efforts to work with Mr. Washington and the Human Relations Commission of the City of Pittsburgh to ensure that the ad's bodies themselves meet all the requirements of the law.

A. Well, this has been going on for quite some time. We've worked with Mr. Washington and previous to that we worked with Mr. Mason of the Human Relations Commission. But it's always been a cordial relationship because we tried to work together to help each other. In particular cases where — in sex — not in sex, but in religion, race, this type of discrimination, we always tried to police this and if there is any question we call on the Human Relations Commission for their advice. If we have a problem we refer it to the Human Relations Commission, and they call us when we make mistakes

and they ask us to change this, which we do, which we fix up.

Q. What changes have you made in the sex classification?

A. Well, we run a disclaimer at the beginning of each male classification and each —

Q. Incidentally, can you tell me right offhand how much revenue that disclaimer space would bring if it were in advertising instead of in that — I was going to say silly notice, but I won't — that notice.

A. Well, that would cost approximately one hundred and twenty dollars a day, for those two disclaimers. So when you figure that its run every day, for a year, that's a lot of money. This is, if it was paid advertising, this is what it would cost.

Q. Tell us what further changes you made in the ads.

A. We changed the headings from "Male Help Wanted" and "Female Help Wanted" to "Jobs-Male Interest" and "Jobs-Female Interest". We feel this is the proper way to do it. We have worked out with the Human Relations Commission in the ads themselves to eliminate job titles that specify one sex or another, like salesman, brakeman or warehouseman and this kind. We take them in and do the job. Like "officeboy", we take out the "boy", its "office work". We take out "girl", we take out "woman", we take out "man", or "male" in particular advertisements. We try to police this carefully. We mess up on many of them, but we are still trying to get this perfected. And with the cooperation of the Human Relations Commission, I think we are doing a fine job of it.

Have you had occasion to check on the practice in other cities, on this matter?

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A. Yes, we get tear sheets every day —
Q. What is a tear sheet?
A. Its one of the pages out of the newspaper. Each week we get tear sheets from the service in Chicago and — some weeks are different, but in the past — almost every week there is some from at least forty-five papers here that I have listed in front of me. There's forty-five major newspapers across the country that all carry separate male and female help wanted classifications —
Q. And that is true even today?
A. Right. This is —
Q. Incidentally, I'd like to introduce this as Respondent's Exhibit One.
A. If I may say so?
Q. Go ahead Bob.
A. This is not all the papers that run separate headings —
Q. No. I understand you.
A. They are the only ones we receive tear sheets of.
Q. Bob, explain that—why its not all of them.
A. Well, we subscribe to service for a definite reason. We want to see what other newspapers do. We solicit advertising from these tear sheets.
Q. These are ones you have personally looked at?
A. These I have seen as recently as yesterday.
Q. And none of the ones listed list their jobs other than "male help wanted" and "female help wanted"?
A. Some of them say "female interest", "male interest" but they have separate classifications for jobs.
Q. Most of them are "male help wanted", "female help wanted", are they not?
A. Right.

Q. Now, to your knowledge, Bob—and you keep up with this to a degree far more than listed by just these newspapers that send you tear sheets—What newspapers in the country do not segregate their ads by sex?

A. Well, I think this was brought up at the previous hearing. The major one is The New York Times, there is Newsday on Long Island, and there is the Wall Street Journal—and the others are in her—I think the Mirror—

Q. There are five of them in New York, are there not?

A. Well in New York and the immediate vicinity. Baton Rouge, Louisiana; Oakland, California; Honolulu; and I think a new one is the Columbus Dispatch that has come into the picture—they are classifying as "help wanted—miscellaneous".

Q. What does that mean?

A. I don't know. It could mean anything, really, and I think it was what they were planning to say. On the newspapers, we followed advertising in a lot of these newspapers that had changed to only one heading. In the New York Times I noticed "men" and "women" still in their ads. I see in the Wall Street Journal that it still says "salesman". I think we've gone farther than any of them. I think we're being very fair.

Q. Now, you've done a survey, or do you know from your own evidence, the ten leading newspapers in classified advertising lineage in 1969?

A. I can give you — I don't know if I have it here or not — yes I do. This is for eleven months. The Los Angeles Times leads by far with over thirty three million lines —

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Q. Do they segregate their ads?

A. They segregate them male and female, right. The New York Times is record, with about twenty-six million lines; the Houston Chronicle; Chicago Tribune; Washington Post; Cleveland Plain Dealer; Miami Herald; Minneapolis Opinion; Milwaukee Journal; Houston Post —

Q. Of those ten which, if any, lump their ads?

A. The only one is the New York Times. It's the only one of those ten.

Q. You were about to say something when I interrupted.

A. These are, when you get to the tenth in this list of largest classified advertisers, from there 'till about the fortyith or fiftyith its pretty much the same category after you get out of the top five or six, when you drop from thirty three million down to twenty million, which the Chicago Tribune has, then they all stay pretty much in the same category — nineteen, eighteen, seventeen, sixteen — this range. The Pittsburgh Press, we run twelve. This was our total last year. There's one other point, if I may, Dick?

Q. Go ahead, Bob.

A. This was an interesting thing, I think, that back in 1964 when the E.E.O.C. ruling came about — when the law was passed — the equal opportunity law or the Title Seven was passed in 1964 and went into effect in 1955 — that the Phoenix Republican Gazette changed over to lumping their ads into one classification, help wanted period. At that time, in 1965 they received numerous complaints by mail and by phone-call. In fact, they received two hun-

dred and some complaints by phone by people who said why do you put all these ads together, why do you make it difficult for us. Well, when the E.E.O.C. reversed their ruling, I think it was 1966, —

Q. The first time?

A. Yes, the first time they reversed —

Q. They reversed it again since then.

A. They came back in April, 1966, and went back to the old way of classifying the ads. They got no complaints whatsoever about going back to the old way. Not a one. I talked to this man, this is Howard Kerr; he's the classified manager at the Phoenix Republican Gazette, and he was very helpful. This is the only one I know that when back and forth.

Q. According to your testimony, Bob, earlier in our hearing here only twenty percent of your ads come from within the city. Is that correct?

A. Within the city limits it would be twenty percent by advertisers other than employment agencies.

Q. Right. An indeterminate number of employers, then, have less than five employees?

A. I would say that a majority of our ads are from within the city with less than five employees?

A. I would say that a majority of our ads are from within the city with less than five employees.

Q. A majority of the twenty percent?

A. Of the twenty percent would be less than five. Right.

Q. The smaller advertiser tend to be —

A. Yes. This is where the barbers, beauticians, or small shop ads, and for the small company.

Mr. Volk: Your witness, Mr. Valadez.

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The Chair: Excuse me, I want to ask one question to make it clear. Did I understand about the Phoenix Republican changed in '64 to one classification and in '66 changed to the two classification? Did you then say in '69 they changed again?

Mr. Seli: No, no. They haven't changed. When they changed back to the original male help wanted, female help wanted, when they changed back in April '66, and they are still running it that way.

The Chair: Mr. Valadez.

Mr. Esper: If the court please, I think at this time, we'd like to introduce this page which shows the disclaimer of Tuesday, February 10 of the Pittsburgh Press; its page thirty-eight and has this disclaimer at the top. We would like to introduce it if there is no objection.

Mr. Volk: Certainly not.

Mr. Esper: Would you mark this. Complainant's exhibit number six, I believe.

CROSS EXAMINATION OF ROBERT SELI

By Mr. Valadez:

Q. Mr. Seli, does the Press handle the advertising for the Pittsburgh Post-Gazette?

A. Yes, We are agents for the Post-Gazette.

Q. And, would you give us an estimate of the circulation of the Pittsburgh Press?

A. Evening approximately 350,000; on Sunday 750,000.

Q. And could you tell us what the circulation of the Post-Gazette is?

A. 250,000 roughly.

Q. And, what is the percentage of the classified employment opportunities in the Press as compared with the Post Gazette?

A. Well, I would say — I would have to base this on total advertising — I would say about ten to twenty percent in the Post-Gazette. You see there are several things here. You have a morning paper that is only published six days. And the difference would not be as great there if you compared six against six. When you compare six against seven, with the Sunday paper being the biggest paper, and, in fact, on Sunday, the classified might have more than would be run all week.

Q. Mr. Seli, with reference to job opportunity, does the Press offer anything other than what is shown on this tear sheet, with reference to classification?

A. Yes. We have "jobs-male interest", we have "commission sales-male interest", "male or female help" — this is a combination classification — and "job-female interest". These are the basic five classifications.

Q. In other words, the employer-advertiser would only have these, which you have enumerated, in which to place his ad. Is that right?

A. Yes, sir.

Q. Now in this disclaimer, which you told us would cost one-hundred and twenty dollars a day, —

A. That's a rough estimate.

Q. For the two disclaimers, have you turned down any advertising that could be sold because of the space for the two disclaimers?

A. No, sir.

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Q. In the disclaimer itself, Mr. Seli, it states here: Notice to job seekers. Jobs are arranged, under male and female classifications for the convenience of our readers. Now, who determines what is convenient for the reader?

A. I think we have to do this. To help to get results, and help to get readership. The readers — over the years — this is the way they want it. If they wanted it differently, they would have told us so, and we would have changed.

Q. Well, Mr. Seli, who is the "we".

A. The Pittsburgh Press.

Q. Could you tell me, is it yourself in combination with other individuals?

A. Well, the policy of the Pittsburgh Press — I don't run the Pittsburgh Press and I don't profess to — but this is a policy, and if the readers wrote and stated we don't like the way you are classifying your ads, I'm sure we would change if there was enough of them. If we were convinced that this is the way the readers wanted it and the majority wanted it, then we'd do it.

Q. Mr. Seli — tell me — is Mr. Troan and Mr. Cameron on the policy staff that decides this policy?

A. Yes, I would say so, yes.

Q. Is there more than the three — you and the two that I named?

A. No. They would make the policy, they would ask me what my opinion was, and they would set the policy, there's no question about that.

Q. Now, I noticed in the second part that it says that this is done because most jobs generally appeal more to persons of one sex than the other. Now

again, wouldn't that be a decision for the three of you to make?

A. You mean on a particular ad?

Q. Yes.

A. I don't know how we could go about it. This is impossible. If on every ad that comes in to run to Mr. Troan and Mr. Cameron and ask them where we should place this ad, is that what you're saying?

Q. Don't you have general guidelines as to what category — when you receive ads from advertisers — that this is where its got to go?

A. Well, when we receive, say in the mail, from advertisers or advertising agencies which place advertising for the major companies, they specify where they want it. In their mail they say male help wanted or female help wanted or male-female help wanted.

Q. In those instances where there is no specification, then you have certain guidelines wherein you place the ad.

A. No. When we don't have a definite instance of where they stated where they want the ad, we call them or write them, if there's time, to find out where they want it, because we cannot gamble on — because the out-of-town advertising is the most expensive and its worth a two dollar phone call to make sure we get paid for the ad.

Q. Mr. Seli, on what criteria do you base your decision, when you are asked by, say, Mr. Troan or Mr. Cameron, as to what is convenient for readers?

A. Well, as I said before, this is the way that the people have indicated — the majority, we feel, still wants their ads classified in this manner. Mr. Troan,

I am sure, would receive many letters, as happened in Phoenix, if we did change it. We received several letters telling us we were crazy about the way we changed to male interest and female interest — why didn't you leave it the way it was? We received several of these, but it was not enough to change it back to male and female. Its the same as when we received these letters from NOW, or people friendly to NOW, of how they would like the ads to be classified. This isn't a majority. This isn't to the best interests of our readership.

Q. Then I take it that, really, it is from your general experience and background and how you have been trained, Mr. Seli, your personal feeling is what really what is the criteria in placing. I'm speaking of those ads where there is no preference stated by the advertiser. Isn't it your own personal feeling and your own set of rules, is what determines where you place them?

A. No, it isn't. It's where the customer wants them.

Q. I mean, assuming where the customer is silent on that point.

A. Then we ask them.

Q. Well, supposing he says, I leave it up to you.

A. Well, all right, then we tell him, we explain to him where most of these jobs run — where the interest runs. This is where the male interest runs; this is where the female interest runs. These are the number of jobs in here. And they know, the advertisers know, where they get the best results. I think Mr. Deck in his testimony before stated this. That they get better results when they run it in the separate

classification. Its of more interest to the man or its of more interest to the woman.

Is this the only type of — if I may use the word — education for your advertisers? Do you then proceed to tell them of the several categories that should go under this or that, take your choice?

We tell them where the majority is — or we try to find out what type of a person they are looking for. Are they looking for a man, or are they looking for a woman? They know this. And they are interested or more interested in a man or more interested in a woman. They know this, and they state this. This is where they want it.

Doesn't the Press, the policy that you have stated, the Press policy, in your opinion, Mr. Seli, would it frustrate the efforts of employment agencies and employers who wish to avoid discriminatory practices but who cannot afford to publish the same ad in both male and female interest columns, and who feel that the publication in the considerably shorter male-female column is less effective.

No, I don't think that. It would be less effective if it was jumbled together. I don't have any doubt of this —

Did you say it wouldn't be?

It would be less effective, if it was all lumped into one classification. Its the employment agencies or the advertisers, and we're back to this again. If they felt that they would get better results by placing it in one classification, they would be screaming at us, you know, just make us change it, because it might cost them additional money. But they are looking for results; and this is why they are advertising.

Many newspapers run a separate employment agency advertising period. Just employment agencies. We could do this too, but it is not in the best interests of the employment agencies and they don't want it. Many cities have started and they screamed and took it out, you know, where they had employment agencies listed separately from the other help wanted. And they changed it, back to where its intermixed with the regular help wanted. This is where they get their best results, because it has the best readership.

Q. Well then, the policy of the Pittsburgh Press is to accede to the wishes of the advertiser, primarily.

A. No. To the readers, primarily.

Q. To the readers, primarily. Well then I'll ask you once again to state, Mr. Seli, that this is determined by a committee you talked about. You and Mr. Troan and Mr. Cameron.

A. Yes. This has been the procedure for many, many years.

Q. Now, Mr. Seli, I believe you are familiar with the ordinance adopted by the City of Pittsburgh, with reference to discrimination. You are?

A. I've read it.

Q. Let me read, under definition, Mr. Seli, under section 4(b). Discriminate and discrimination. The terms "discriminate" and "discrimination" include any difference in treatment based on race, color, religion, ancestry, national origin, place of birth or, as amended, sex. Now section 8 —

A. What page are you on?

Q. Oh, this is page three — under definitions — 4(b) as amended, of course, adds sex. On page 10, under

(j), this would be section 8(j). The opening paragraph starts: It shall be an unlawful employment practice, etcetera, except where a bona fide occupational exemption is certified by the Commission etc., and then I refer you to (j), for any person, whether or not an employer, employment agency or labor organization, to aid incite, compel, coerce or participate in the doing of any act declared to be an unlawful employment practice by this ordinance, or to obstruct or prevent any person from enforcing or complying with the provisions of this ordinance or any rule, regulation or order of the Commission, or to attempt directly or indirectly to commit any act declared by this ordinance to be an unlawful employment practice. Now, this is what the ordinance says, isn't that right Mr. Seli? Now, do you feel if the advertiser wants to discriminate on the basis of sex and you accept his advertisement in the paper, are you not aiding?

Mr. Volk: I'm going to object to that. I'm the attorney for the Pittsburgh Press, not Mr. Seli. So long as I am retained by the Pittsburgh Press I think it is my obligation to give the Press advice as to when they are or when they are not violating the law. I don't think Mr. Seli is qualified, or competent, to make legal interpretations under the guise of cross examination.

The Chair: Would you repeat the last part of the question?

Court Recorder: Do you feel if the advertiser wants to discriminate on the basis of sex and you accept his advertisements in the paper, are you not aiding?

Hearing of February 12, 1970.

The Chair: The objection is sustained.

Q. In the Press classification, as it stands today, is there a difference in treatment based on sex?

Mr. Volk: Same objection.

The Chair: Could you repeat the question?

Mr. Valadez: In the Press classification of jobs, as it exists today, and as it has been for awhile, is there a difference in treatment based on sex?

Mr. Volk: You see, the reason I am going to object is that there obviously is a difference in treatment, because we have them under male interest and under female interest, but as used in the ordinance "difference in treatment" is a word of art. And once again we get into Mr. Seli, if he answers the question, giving in essence a legal opinion as to whether or not this is a difference in treatment within the meaning of the ordinance. Of course its not. A layman ought not be allowed to get into that trap. And this is a valid legal argument, which the complainants may make, but it belongs as legal argument and not under the disguise of testimony of the advertising manager of the Pittsburgh Press.

The Chair: Well, we will not sustain your objection here because the question, while maye be the word of art, the question is factual, and therefore I will direct the witness to answer the question.

Witness: Will you repeat the question?

Court Reporter: In the Press Classification as it exists today, and has for awhile, is there a difference in treatment based on sex?

A. I would say no.

Q. Well, do you consider the placing of an ad under a specific heading an expression of a preference, limitation, specification or discrimination based on sex?

A. No.

Q. I think in your testimony earlier, Mr. Seli, you stated that it would be simpler, and actually easier, for you to eliminate the differences, or as you state it, lump them all together — the job classifications?

A. Right.

Q. And how did you arrive at the figure of fifteen percent as the percentage of ads by employees with less than five employees? Is that just a guess, an educated guess?

A. This is an estimate on my part, after looking at the ads and seeing the number of ads. Yes.

Q. Then it would be a guess, right?

A. An estimate, a good estimate.

A. I don't know how you can prove it or find out how.

Q. There are certain areas here where what you are doing, what you are really doing Mr. Seli, is guessing. Right? In quite a few instances. Is that right?

A. In what way?

Q. Well, you are guessing about what's good for the reader, convenient for the reader, with —

A. No, this is no guess. We know this.

Q. And as you stated, it was easier to lump in one unit, in one classification — it would save money really — would not then you and Mr. Cameron and Mr. Troan have to make a policy to have a single job classification?

A. Yes.

Q. I think in your testimony you said that you be called upon, Mr. Seli, to make suggestions to the policy committee. Is that correct?

A. For my opinion, yes.

Q. They would call you in for your opinion. Do you actually help Mr. Cameron and Mr. Troan set the policy?

A. No. They ask me for my opinion and then they set the policy.

Mr. Valadez: I have no further questions.

REDIRECT EXAMINATION OF ROBERT SELI

By Mr. Volk:

Q. Tell me, Bob, did you take a survey of the letters to the editor received after the last series of hearings in this case? Did you get an opportunity to do that?

A. I think they all appeared in the newspaper. I checked with Mr. Troan and he said he ran all the letters he received.

Q. Right. How often are you asked, how many times a year are you, the manager, asked where the ad should be placed? In other words, the complainant put in a lot of cross-examination about your being asked by an advertiser where should I put my ad, under male or female. How often does this occur?

A. Under male or female, I've never been asked. They'll ask me on a miscellaneous ad where its a question of whether it should go under equipment or under automobile or something like this but I've never asked what classification should I run this in.

Mr. Volk: No further questions, sir.

By Mrs. Reizenstein:

Q. Sir, you made a point of ads that come in and out of the city. Are you aware of the state law, that it also includes the sex provision?

A. Yes, I am aware of that law.

Q. Have you had any communication from the State Commission as to guidelines or any problems related to their law?

A. Yes, we have. This was, I think, a news release sent out by the Human Relations Commission of the state. That is about what it was.

Mr. Volk: If I may interject, a news release under the guise of a guideline, which has never been to our knowledge promulgated as a guideline. Done so without following the requisite state procedures for issuing regulations. Was done under most unusual circumstances. And we did have a meeting with representatives of the State Human Relations Commission to protest the irregularity of this "news release — guide line, or whatever it was", and the results of that have been most inconclusive. I think they decided not to rescind it, but to our knowledge no action has been taken.

Q. You indicated in 1966 the EEOC made a finding and then reversed it, is that correct?

A. They made their first ruling, I think, effective July of 1965. And then they reversed this ruling, saying you could not use separate "male—female" headings. Then they reversed it in '66 and said it is permitted to run separate headings and run a disclaimer. Then, I think there has been a disclaimer on this.

Would you give me the dates again?

Hearing of February 12, 1970.

Mr. Volk: Mrs. Reizenstein, I think we object to introducing it.

Mr. Albright: Tuesday, February 4, 1969, effective date of guidelines.

Mrs. Reizenstein: We will have that.

Mr. Volk: Yes, that was done by a three to two decision. We will have some authorities on that, too.

Q. You indicated it would be probably 15 per cent of those who have five or less employees. How would you know this? Do you ask each advertiser?

A. No, this is why I say it is a guess, Mrs. Reizenstein. You couldn't ask them. How could they tell you? How would you know you would get an honest answer? This is why we are put in jeopardy.

Q. You have been asked, Mr. Seli, by both Mr. Mason and Mr. Washington and the State Commission people, in coming to some understanding, how you would deal with ads on race, religion, and so forth?

A. Yes.

Q. Do you see any difference between the sex discrimination and the other discriminations that are part of the law?

A. The difference between race and sex?

Q. Yes.

A. Definitely.

Q. You do?

A. There is a difference in sex. I don't see any difference in race and color.

Q. But it was important enough for the state and federal government and city to include in the law?

A. I don't know.

Q. Would that be of any value once it is on the books?

A. I don't think the law applies to the newspapers. It doesn't state this. I am not a legal man, but I don't think it applies.

Q. But there was an understanding between the Commission and the state relating to the other provisions; is that correct?

A. This I don't know. I can't speak for other newspapers. As far as the Press, the city ordinance working with the Human Relations Committee — it does a better job working with the City than the state. They have a much better working relation and better rapport.

Q. You indicated employers and agencies have some concern about this and you think this reacts negatively for them? Do you recall that the same was true in the other provisions in the past? It took sometime before employers and agencies really accepted the principles of the nondiscrimination laws.

A. No, I don't think so. This was no problem. This was a very easy matter to do. I think everybody believes or is against discrimination in other fields, but can't see where they are the same. There is a difference in sex where there is not a difference in religion, race or creed or color.

Q. But there was a problem in getting compliance; is that correct?

A. Right. And we told the people how we wanted it run, and they listened to us.

By *Reverend Johnson*:

Q. I just have a question concerning after the first EEOC guideline had come down, or decision had

come down. You mentioned one paper that shifted and got many, many complaints. I was just wondering if that paper — Do you know of any study that was done or any attempt that was made by the newspaper either to educate the public as to why it was changing along this line?

A. No, I don't. I don't think they made any attempt. They just went ahead and changed them. It was the law. I think the same thing happened there — a ruling. They took it as law, and it wasn't law. The same thing happened in the state recently. The sent out this news release and many newspapers, little newspapers, thought it was the law. And it was not the law. It was an opinion.

Q. Since the law has been changed, has the Press made any attempt to educate its advertisers, those who are advertising as to what the ordinance indicated? Now, you may not think it was the Press's job, the newspapers in general.

A. No, because I don't feel, they don't feel it is their job to do it. I don't know what the New York Times did, but they are a different breed of cat. They are a big paper and a different community.

Q. I asked that for the very reason, whether the newspaper industry feels when these things change they have the responsibility to do this. Or do they not feel it is their responsibility?

A. I feel the newspapers wish to uphold the law, and they try to do it when it is the law. And they definitely try to educate people when it is a part of the law. And they obey the law of the land. I definitely feel they do.

Mr. Volk: If I may interject as counsel. This is the very thing; that we feel it is not the law. We don't feel the Press has to do what the Complainants ask them to do. We don't feel we are violating the law. That is why we are here.

By Mr. Esper:

Q. At the state's human relations meeting, who attended from the Pittsburgh Press?

A. Mr. Volk and myself.

Q. With the State Human Relations Commission?

A. Yes.

Q. Now, just one more question. If the Press were to switch over to this lump advertising, lump it into one unit, would there be any significant change in revenue to the Pittsburgh Press?

A. No, not immediately. But I am afraid if the results fell the number of ads would fall, to. If the customers didn't get the results, they would discontinue to advertise.

Q. Where else would these people advertise, if not the Press?

A. Post-Gazette.

Q. I say if not the Post-Gazette and Press?

A. Local papers. This takes in the whole Western Pennsylvania. There are a number of newspapers in there — Beaver, Butler, Uniontown. They all have daily newspapers, and they are not bad. Washington. They are close in. They are competition now. With regular advertising and television and radio — they are all competition.

Q. If all the newspapers were to obey the law —

Mr. Volk: I object to that conclusion. They are obeying the law.

Q. Well, if all the newspapers were to lump their ads into one column, what significant change would there be?

A. The same changes of the Pittsburgh Press. The same changes we had in compliance. The loss of revenue in loss of results.

Q. Well, Mr. Seli, if all the papers were to do this, the one that you mention, the various publications — if they were to do this, how could it affect the Press and Post-Gazette?

A. They can go to other media.

Mr. Volk: They are not covered by this ordinance.

Mr. Esper: The state?

Mr. Volk: They are not covered by the state.

A. At least we are acting in the spirit of the law as set forth in the constitution.

Mr. Volk: Set forth by the National Organization for Women.

Mr. Esper: That is objected to as unnecessary comment.

Mr. Volk: Anything further from the Commission?

The Chair: We will take a five-minute recess.

Will you please come to order? Both counsel, I understand, requested that we adjourn now and reconvene at one-fifteen. Is that correct?

Mr. Volk: Yes.

The Chair: In that case, we willl stand adjourned until one-fifteen this afternoon.

(The hearing reconvened at 1:27 P.M.)

The Chair: Will you please come to order? Mr. Volk.

Mr. Volk: For our second and probably last witness, I would like to call Mrs. Peters to the stand please.

DR. JEANNE PETERS, called as witness for the respondent, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF DR. JEANNE PETERS

By Mr. Volk:

Q. Will you state your full name, please?

A. Jeanne Peters.

Q. And, what is your job? What is your profession?

A. I'm an industrial psychologist with Psychological Service of Pittsburgh.

Q. And what are your qualifications for that position? What is your education?

A. I have a Ph.D. degree from Duquesne University and a Master's degree before that from Duquesne.

Q. And how long have you been a practicing industrial psychologist?

A. Five years.

Q. And as an industrial psychologist with the Psychological Service of Pittsburgh, what do you do, essentially?

A. I have two job activities with which I am primarily concerned. I spend most of my time in motivational

research and the rest of it in what we call a consulting capacities in the appraisal and measurement of aptitudes and interests for jobs.

Q. Did you make a survey of the literature and works done on employment of women and motivation of women at my request?

A. I did.

Q. Would you discuss for us, and feel free to refer to your notes, the presence or absence of a female interest, that is, jobs-female interest versus the jobs-male interest? Where the differences between men and women and the types of jobs they may prefer?

The Chair: Would you speak a little louder, please?

A. Yes, I'm glad to. I'd like to give three points here — three types of information that . . .

Mr. Volk: Mrs. Peters, they still have trouble hearing you. I can hear you perfectly — it's just in the other direction.

A. First, I'd like to establish before I go into some of this material so that people are not confused that I hope to bring into the record at this point what I consider to be experimental evidence as opposed to theory. So, I'll hit two areas that I feel are scientifically valid areas of evidence on differences between men and women.

The first is in the area of what we call job interest inventories, that are used frequently by psychologists in their profession. Summarily, I might say that on all of the inventories that we use in our company there are significant mean dif-

ferences on the scales of the job interests between men and women. Second point, . . .

Let's stick to that one for a minute, if you will. Do women tend to score higher on different types of jobs? Is that what you mean?

Yes.

What type of job, for example, do you find statistically that women tend to prefer?

On the basis of inventories, I would say that you could group all the job interests for women as jobs involving people. And, that's probably the biggest group, individually. Otherwise, we could say, professional nursing and teaching. Women score higher on these; and on engineering, business management, law, etcetera, men score higher than women on those.

Go ahead with your statement.

All right. A review of areas of participation of women in the labor force shows that fourteen out of seventeen occupations which were seventy percent female in the year 1900 are still seventy percent or over female.

Could you name some of them?

Yes. I don't know that I have all fourteen of them here. I would say librarians, nurses, teachers, secretaries, telephone operators, dressmakers, textile workers, office receptionists, dental assistants, on down the line.

Go ahead.

Statistics on the selection of college majors show men to be concentrated in the more traditionally "male" occupations and women in the more "female" occupations, if you want to say that. More-

over, differences between the sexes in their choice of the type of college majors became more marked as the undergraduate years progressed. Men have been found to be much more likely than women to remain in, or be recruited into, business, engineering, physical sciences, and mathematics whereas women are more likely to remain in, or be recruited into majors in the arts, humanities, and education.

Furthermore, and I think this is an important point, too, a woman who starts college planning a career in one of the more masculine majors is less likely to end up pursuing such a career four years later than she is to switch to one of the more traditional female majors.

In summary, the percentages of women that are only employed for some jobs are quite high, and I am basing this on census bureau of statistics. Statistics show that eighty-six percent of librarians, ninety-eight percent of nurses, seventy-two percent of all teachers, eighty-eight percent of elementary teachers, ninety-three percent of dietitians and nutritionists are women. Moreover, forty-three percent of all women employed in professional or technical occupations are teachers, twenty-two percent are nurses and two percent are librarians. These three professions account for sixty-seven percent of all professionally employed women.

On nonprofessional levels, ninety-eight percent of physician and dental office attendants are women, ninety-eight percent of receptionists and ninety-six percent of stenographers and secretaries.

On the other hand, only one percent of engineers, eight percent of physicians, three percent of scientists in general are women.

Q. Now, can you give some scientifically grounded reasons why females tend to prefer certain occupations?

A. These jobs which have remained largely populated by women have a number of common characteristics which, in my feeling and in the feeling of most of my colleagues, promote the attachment of the female sex label. Moreover, many of these characteristics hold considerable appeal to the majority of women.

Q. In other words, your testimony is that they are not forced into these occupations, but that most women actually do indeed prefer to follow these occupations.

A. I would take that stand.

Q. Go ahead.

A. For example, the major female professions, nursing, teaching, and librarianship, are traditionally female occupations. Most of the training for these jobs is acquired before employment. Career continuity is not essential.

Q. What do you mean by that?

A. I mean that a woman doesn't have to say that she's going to be there for the next thirty years in order to qualify for the job.

Q. In other words, she can stop, raise a family, and come back.

A. Right. These jobs exist all over the country and so mobility, or lack of it, is not usually a serious handicap.

Q. In other words, you mean being forced to move with a husband or stay with a husband is not a handicap for performing one of these jobs.

A. Right. Diligence and a certain devotion to the job are required, but long range commitments and extensive sacrifices of time and energy are not necessary. Employment in such occupations relatively infrequently puts the worker in a supervisory position of male employees, although she may be in a position of relative power over those outside the organization.

Q. Now, can you contrast those jobs with male interest?

A. The male professions, on the other hand, which are predominantly male, for example law, medicine, university teaching, architecture, and the clergy differ in these respects. Generally, these professions require investments of time, energy, and devotion, extended, often difficult schooling, and a lifetime of overtime work. Continuity is usually essential, and the ability to move or not to move may be important factors in whether or not success is achieved.

It's hard for me to believe, as an individual and a woman, that if a strong desire to break into other types of work had prevailed among women, in general, they would not have made greater headway into these predominantly male occupations within the recent years. There are a large number of studies supportive of a tendency for women to move slowly in changing the status quo.

Q. Do you have some statistics to back that up?

A. In a survey conducted by the Women's Bureau of the Department of Labor, only eighteen percent of women college graduates said they planned to have a career, although most were working or planned to work at some point in their lives.

A survey of female college graduates three years after graduation questioned women on the types of success they viewed as most desirable. The most frequent answers were: to be the mother of several accomplished children or to be the wife of a prominent man. While over forty percent of college graduates are women, only eleven percent of the doctorates are conferred on members of the female sex.

In another study, only fifty-eight percent of a group of over twelve hundred academically gifted freshman women obtained a degree. Moreover the percentages of women completing a degree differ for various majors. A larger percentage of graduates have majors in education, social services, and home economics; while more of the nongraduates had business, natural science, math, English, and language majors.

Q. Are there differences in interest in graduate training as they go on?

A. It has been found that during the undergraduate years, a man's interest in graduate training tends to increase more than a woman's. Women have been found to have initially lower levels of educational aspirations, and even shorten these as college years progress.

Hearing of February 12, 1970.

Finally, studies show that two out of three high school females change their vocational goals by the time of college graduation.

I think it's important to bring in here that the adolescent years for a woman are very impressionable years, and it is at this point that many women decide what they are going to follow for a career. I think the interesting part to some of this research is that it is not during high school years that the women do not choose "atypical" professions, or male professions, but quite a number of them start college with these ideas, and give up. . . .

Q. . . . following a profession not typically "female".

A. Right. But, very few of them follow through to college graduation.

Q. In other words, the pressures of conformity are intense during high school, but they leave high school tending to follow a non-usual career, and then change in college. Is that right?

A. Right. They generally do. One of the main concerns of the company with which I am associated is research in the area of job motivation. Investigation into the sources of job satisfaction has shown considerable differences between college women and college men applying for management training positions.

In a study of the sources of job satisfaction and dissatisfaction among college graduate women and men employed in the field of communications, I found marked differences in the sources of satisfaction of the men and women. The women were more highly influenced by affective peer relation-

ships, relationships with the boss and needs for being respected, feeling important and feelings of progress in the job.

Q. These things were measured?

A. Yes. On the other hand the men were considerably more influenced by experiences of achievement and failure. The sources of male happiness and unhappiness are more related to the job itself and the career involved. For women are more attached to the total job situation — that is, supervision and fellow workers. These women enjoyed becoming involved in all phases of the job situation and had strong desires to feel needed and important but without having aspirations for managerial authority. Only one-third described themselves as career oriented. The majority reported working to supplement family income or to become involved in a variety of activities and to meet people.

Q. Now, having established that this interest exists, and establishing how these varied interests do indeed legitimately exist, can you give us some underlying reasons why these interests are different between male and female? I think some of our opponents here would ascribe them all to some part of a masculine conspiracy to oppress all women. Can you give us something perhaps a little more scientific and a little more rational that would account for this disparity in job preference?

A. I think I'll try and point out the weight of the evidence in the scientific literature that there are differences in the male and female job interests and motivations. And the psychological reality of the term "female interests" is a very valid one.

Summarily, there are a number of jobs which are primarily populated by women, and the majority of women are employed in these jobs. The fact that a particular minority of individual women do not have these interests does not constitute grounds for dismissal of a concept as scientifically or experientially invalid. In hearing the previous testimony, I have the impression. . . .

Q. Incidentally, you have sat through the previous hearings?

A. Yes, I have the feeling that a few global generalizations have been made, and a few theoretical formulations presented as fact. Particularly, the disavowal of any biologically based sexual determinants of human behavior. Such as a statement would appear somewhat naive in the face of four hundred and twenty-five studies reported under sex differences in the psychological abstracts for the year 1968 alone. These studies encompass a variety of physiological and sex related differences from recorded eye-movement, frequency of migraine headaches, tendency to hysteria, body sway, reaction time and pure tone thresholds for hearing. That this large number of psychological and physiological dimensions of sex related behavior has been the focus of so much research should give sufficient weight to the fact that the human person cannot be viewed without his body or his sex. moreover, to ignore bodily development in any attempt to maximize human potential is to defeat the cause of humanism.

Q. Are you saying, in effect, that there are a few distinctions between us that would indicate that

there are a couple more bona fide occupational qualifications than sperm doner or wet nurse?

A. I'd like to think so. I think it's important to bring out here that if we just want to take the minimus amount of achievement in a job is one thing, but when we talk about social change and the maximization of human potential, I think it's important that we get down to business and look at the facts. And the fact of the human person is very significantly the fact of his or her body. The willingness to close off this area of human possibility — the human body — is reflected in the assumption of a position that society has limited girls from opportunity for full development in their capabilities by not expecting them to assume certain roles in society. This point of view states that given equal opportunity and could be as masterly as men. The achievement of this goal would prevent any role conflict on the part of women in management since they then would operate as men. Such an assumption implies the conviction that to be feminine is basically inferior to being masculine, and, also, that women have nothing unique to contribute as a force for social change.

Indeed, it would appear critical to our times that all varities of human possibility be explored and recognized for the fullness of the unique female potential. To ignore the weight of such important contributors to the field of psychological theory as Jung and Erik Erikson in their specification of a uniquely female perspective is yet another form of discrimination against women.

Q. In other words, you are telling us that there is such a thing as the feminine personality, the feminine—to use the favorite word of the founder of our tormentor organization, Mrs. Friedan — the feminine mystique, and that this is not all culturally imposed.

A. I'd hate to think so.

Q. To your knowledge does the literature show that it is culturally imposed?

A. No.

Q. We heard some conversation about some relatively well-known studies — I'd heard about them myself — done by Margaret Mead on the natives in New Guinea, could you comment on that — cultures where the females seem to be more aggressive than in other cultures where the men seem to be . . .?

A. Well, I am sure that if Dr. Mead observed it, it was a valid observation.

I think maybe generalizing it to cover all societies might have been a mistake.

I think one thing I have noticed in reading is that there is no society in which there isn't some difference between — some specification of two different sexes. One or the other.

Regardless of the role that the specific sex plays, there are still only two sexes, and the roles assumed by them are differentiated.

Q. In other words, in no culture you've been able to discover in your reading of the literature is there a unisex?

A. No.

Q. Can you view man without his culture?
A. No.
Q. Can you comment on that, please?
A. Man is a social being who lives in the world. When he's not living in the world, he's not living. So, he interacts with the world.
Q. This produces culture?
A. Right.
Q. Culture produces job preferences?
A. I think so.
Q. Did you have occasion to discover what percentage of the American labor force is women?
A. About one-third.
Q. One-third?
A. Yes.
Q. Did you notice the age—that is, does the percentage increase or decrease with age?
A. Yes. There is a large percentage who work before they are married or their first child. Then, there is a drop off in the percentage of women in the labor force. Between forty-five and fifty-four—something like that—I think it is sixty percent of women in this age group work.

Mr. Esper: Is that last statement that sixty percent of women work at that age?

A. I believe that. I'd have to check it for you. Between fifty and sixty percent of women in what we call the middle aged period, forty-five to sixty, . . .

Mr. Volk: Thank you for raising it to forty-five. (Laughter) You got that?

Q. Have psychologists been able to differentiate psychological characteristics of those women who tend

to be career oriented versus those women who tend to follow the traditional role?

A. By career oriented I mean women who put the job before everything else, who when asked to write what sources of activity are the most important to her lifetime will write the job is first. These women have been found to be higher in their needs for achievement and for status, or shall we say not status but fame, than the average woman.

Q. Were you able to discover or could you give us any opinion as to whether or not these women would be diffident about looking under jobs-male interest or jobs-female interest and applying there for jobs in their chosen careers?

A. No. I'm sure they wouldn't.

Q. You sure they would not be diffident?

A. No. I think not.

Q. Can you draw a distinction for us between the old feminism, as we have come to know it, in striving for gains for the female, versus the new feminism that's defined in psychological works?

A. Yes. The old feminism was based on a certain set of assumptions that the male was the role, the position, to have and that the female was operating under a significant biological handicap, and that by achieving equality with the male she would, shall we say, fulfill herself. I think it is interesting to note that during the time of getting the vote was a time for important social change. Unfortunately, the vote in the hands of women did not affect this change. Now, in our day, I think we are beginning to question more of our basic assumptions more.

Psychology is looking at a more humanistic

people oriented operant for behavior, and I think the new role for feminism in our times is to maximize the uniqueness of the female person in what she can contribute to society. Not by equating her or her roles to that of the male. I think by doing so it is assuming that what men have achieved in the past sixty years in our century is good, and I think anyone who is interested enough in social change will raise some question as to what the men have achieved. But, by identifying with men I don't think we are going to maximize female potential and I am hoping that the emphasis will be that of the uniqueness of the female person.

Q. Which would account for an interest in certain roles that are uniquely feminine. Correct?

A. Right.

Q. Which maximize the utilization of the . . .

A. Right.

Q. Rather than a denial of this.

A. I don't think we can ever deny that.

Q. We've heard them deny it! We don't think that invalidates the matter.

A. I don't know if as women we can—maybe as proponents of a cause, we might.

Q. In your experience as an industrial psychologist, which of course involves the work, psychology as it applies to jobs, getting jobs, holding jobs, have you found any such distinctions, cultural or otherwise, between the races or between nationalities or between religions that would manifest themselves to any significant degree in differentiating job interests?

A. I don't think so—not in my personal experience.

Q. Nor in the literature?

A. No.

Mr. Volk: Your witness, Mr. Valadez.

(A ten minute recess was had.)

CROSS EXAMINATION OF DR. JEANNE PETERS

By Mr. Valadez:

Q. Mrs. Peters, you obtained a master's degree at Duquesne University?

A. That's right.

Q. In what subject? Psychology?

A. Yes. Psychology.

Q. And then for how long did you go on to get your Ph.D.?

A. I completed the program there?

Q. You completed the program?

A. Yes. At Duquesne.

Q. How long did it take you to complete it?

A. About seven or nine years.

Q. And was it after you obtained your Ph.D that you obtained this job with Psychological Service of Pittsburgh?

A. No. I was hired there before I completed it.

Q. I see. And in your job as an industrial psychologist in this field you talked about motivational research and also acting in a consultant capacity—would you explain to me again this consultant capacity? What were your duties there?

A. We have a hundred and fifty contracts in the city—that is, clients. On various occasions, for one reason or another, these companies use our services. For example, if they are considering a person to be ad-

mitted to a training program or for promotion to a management position or for placement in a particular job or etcetera, then they request that the individual come to the company and we will test him or her, interview this person, and write a report summarizing our conclusions and recommendations and to their desirability for this particular job.

Q. Do you do this alone or with anybody else?

A. There are ten of us on the staff of this company.

Q. Are the other nine male or female?

A. There are six men and four women.

Q. On this level?

A. Yes.

Q. Now, tell me a little bit about this motivational research. What does that mean?

A. We have done rather extensive research over the past few years. We have recently finished a book which has been published by the American Management Association called "The Motivated Modern Adult". This was—

Q. Pardon me. When you say "we", who is we?

Q. Are these the ten people you were talking about?

A. No. Dr. Ray Hanson is the department head, and myself. Under a grant from the Alcoa Foundation we completed this book. Its a survey. And we developed over the past five years a number of scales for measuring work motivation in adults. Summarily, that's what's in the book.

Q. You eluded to something about the three types of information that you look for in this motivational research. Is that correct? You talked about experimental evidence against theory. Would you reject theory and apply experimental evidence?

A. I'm not clear what you're asking me.

Q. Well, I think you stated that you were looking for some types of information. Would you tell me what types you were looking for?

A. In my job?

Q. Yes.

Mr. Volk: I'm not sure she could.

Q. Well, when you were talking about motivational research you mentioned that there were certain types of information that you take into consideration. I believe when you make your decision to place—

A. On management motivational research that is qualified result psychology. In other words I have two types of roles there. The one: if you were to come, for example, to our company I would give you some tests; I would interview you to see your interests; I would administer to you motivational inventories to try to figure out where your motivation lies. And then, I would write a recommendation on you. Now this is not my research capacity; this is my capacity as a consultant.

Q. Would you apply the same standards regardless of whether a male or female came to you?

A. In the routine I go through?

Q. Yes.

A. Certainly. Females are treated the same way as males as far as what we would prescribe for her in the course of the day and as far as the fact that she would take tests, be interviewed and have a report. Now that's broad.

Q. I think you did testify, Mrs. Peters, that there are biological differences between the sexes. And do

you think that categorizing the jobs as male or female in the newspaper, or mass media, generally might actually help produce some of these preferences.

A. No. I do not believe that.

Q. Do you think that categorizing these jobs as male or female in the newspapers or mass media generally might actually reduce some of these preferences?

A. No.

Q. I think you were here when we had the original hearings. Do you remember when Mr. Volk mentioned that Jews are overrepresented in the legal profession and it is well known that they are overrepresented in colleges and many professions such as social psychology, for example?

Mr. Volk: I didn't say over-represented. You want to offend me to my friends. Some of my best friends are lawyers! Some of my best friends are women!

Q. Well, you've heard it mentioned that the Jews tend to become pawn-brokers, lawyers — they go into fields. Right? Now, would you agree that there are differences in job preferences between different ethnic groups?

A. On the level of people I work with, I consult on,—

Q. You what?

A. I would say that in talking about the professional people that I deal with in my work—now I don't usually see hourly employees— if you're talking— I serve as a consultant primarily in professional placement—on that level, I would say no.

Q. You would say no. Is that right?

A. I would say no right now. I would look into it, you know.

Q. Well, what evidence do you know about ethnic groups in connection with vocational interest tests?

A. I don't know anything.

Q. You know nothing?

A. No. I've never looked into this area.

Q. Well, how about aptitude tests or intelligence tests?

A. As far as ethnic groups go?

Q. Yes.

A. What do you mean by ethnic groups?

Q. Well, Mexicans, Italians,—

A. I know of no differences there.

Q. You know of no differences?

A. No. I have no first-hand information.

Q. You mentioned, I believe, that in 1900 about fourteen out of seventeen jobs are still in the same ratio today? Is that correct?

A. Right.

Q. Well, isn't that also true of janitors, porters and so forth—?

A. I'm not sure. You mean male—janitors as male, as opposed to cleaning ladies?

Q. Yes.

A. Yes.

Q. So then, the tendency, Mrs. Peters, is that at that particular time in the nineteen hundreds, women regulated to a more or less second-class type of existence. Is that right?—as compared with men.

A. I disagree here. If you are talking about the fact that in nineteen hundred over seventy percent of

the teachers were women, I wouldn't call this second class.

Q. Seventy percent of the teachers—

A. Over seventy percent of the teachers at the turn of the century.

Q. Well, you did mention that the teachers, the nurses, the librarians, etcetera — that this, primarily, is where most of the women go. Is that right?

A. Yes.

Q. And, what I'm trying to get at is how do we upset this balance? Perhaps a woman wants to be a doctor. Why is it that eleven percent, as you testified, of the women become doctors in the United States—

Mr. Volk: Ph.D's. Ph.D's.

Witness: Yes Ph.D.'s. There are only eight percent of medical doctors.

Q. Do you know how many physicians?

A. Eight percent.

Q. Eight percent of the physicians in the United States are women. Is there any difference between people here and people in the Soviet Union?

A. I don't know.

Q. And can you tell us why in Russia seventy-five percent of the physicians are women and only eight percent are—

A. I think this is something—is a statement that has been thrown out, which is one of the global generalizations I referred to here. It is certainly common knowledge that in Russia seventy-five percent of doctors are women. I'm not entirely sure what a doctor is in Russia.

Q. A doctor?

A. I don't know. I've never been in Russia. So I don't know if there are enough doctors as doctors in Russia. I read somewhere that in Russia, that there are no teachers who are women.

Mr. Volk: If I may interject. In Life magazine they had quite a feature article on medicine in Russia and it described doctors, and doctor's assistants, and they had a name for these women that aren't quite doctors. I refer the board to that issue.

Q. Well, in the same article it showed that women in Russia are—

Mr. Volk: It was an article on Russian medicine, and it showed that Russian medicine is fractionated into doctor and assistants that have a name that begins with F which escapes me, but—

The Chair: That name is spelled FLCCZR.

Q. Mrs. Peters, there are a small number of women in law, medicine, and engineering. What about this for the United States? Would you care to comment?

A. There are a small number of women in psychology. I am one of them. I think I could comment on that.

Q. Why is that? Why don't more women go into psychology, medicine and engineering?

A. I think there are reasons. I think it is a rather complex issue. There is a positive and a negative attitude in trying to sum up why. We can say that there aren't any because women haven't been expected to be in these professions. And then you

can say that there aren't any because they want other things very early in their lives, which they particularly jump in on as soon as the opportunity is presented to them, and they quit college and they don't go on to get them. I don't know how many women who quit college are sorry they didn't go on to get them. I haven't done any investigation of that. But they might not be getting them for other reasons too.

Q. You didn't conduct in conjunction with anyone else any reason in this line, why women don't pursue what you had testified previously to an aggresive type occupation restricted to the male. You have done no independent work?

A. No.

Q. Nor in conjunction with anyone else?

A. No.

Q. I think what you have testified to, from the notes I have, isn't that also work — those statistics you gave us — work done by others?

A. That's right. The studies I have been personally involved in concern motivational factors in women.

Q. Isn't it true that limited opportunities help restrict interest in certain occupations?

A. Yes.

Q. It would?

A. Yes. I think if someone strongly convinced me that I couldn't get into something, I might use prudence and try something else.

Q. And not get into it?

A. Yes, but I don't know how much it takes to convince a person in this day and age.

Q. What effect do you think it would have on a women's motivation to apply for or show interest in positions that are categorized as male interest?

A. I'm not sure that there is any.

Q. There is none? You don't feel that a woman—

A. I haven't seen it if there is any.

Q. Well, did you hear the testimony earlier — a lady here said that she was really intimidated, when she was applying for a job and found that what she could do was under male-interest and under the female-interest there wasn't a similar type job.

A. I wasn't too struck by that, for the simple reason that I wasn't quite sure what was intimidating her. Whether it was the fact that the job was listed under male-interest, or that she wasn't quite sure that she had the qualifications to be looking for it in the first place.

Q. But that's the point. Don't you feel then that by placing the job this woman was qualified to do this work — placing it in the male section connotated something she didn't have, biologically or otherwise?

A. Not necessarily. I wasn't entirely convinced that she was fully prepared for, or in her own mind, adequately prepared for the job in question. I think there was a question there. I think it was a certain anxiety that came from not being sure of herself, that she could do it.

Q. Well, in your opinion, would women generally be reluctant to intrude on what is culturally viewed as male territory?

A. Not as much today. I think we've taken over a lot of the men's world.

Q. You've what?

A. I think we've taken over a lot of men's things and have done so without forcing our way in. We run the home, we balance the budget, we do a lot of things.

Q. You alluded in your testimony, Mrs. Peters, to something about Erik Erikson. What was that?

A. Erik Erikson postulates that whereas the male has a certain bodily stand in the world, constituted by his maleness, that there is a uniquely female characteristic which is governed by the fact of an inner space of the woman. This inner space is an existential concept that permeates everything that she does. Consequently, the way she operates in life has a possibility of bringing things to her, of finding new organization on owness, feelings of intimacy and belongingness, which are constituted by her biological self.

Mr. Volk: You asked her.

Mr. Esper: We accept it.

Q. We accept this posture as Erik Erikson's; the view that women are people oriented. Wouldn't woman's unique nature — shouldn't that be represented in all professions?

A. I think so. I think that the major thing we have overlooked in the past fifty years or thirty years with women, is that women can be brought into different jobs. But the jobs must change. The way a woman doctor is a doctor must be recognized as being different, an alternative possibility, to how a man would be a doctor. When we deny the fact that sex can contribute to a person's potential in any

profession, I think we are cutting off a tremendous right, a possibility for human achievement. I think there is room for women psychologists and men psychologists — there's no such thing as just a psychologist as far as psychological reality goes.

Q. Is there any body of experimental evidence that helps support Erikson's conclusions?

A. There are some empirical and experimental studies — my own study had as a basis this concept that women are different, and this difference is related to this uniqueness as a female. This hypothesis supported my own experience and my own research. I found that women were different and their differences did belong along the lines—

Q. The differences in what?

A. The differences in women could be accounted for and talked about under these dimensions.

Q. Is the Pittsburgh Press one of your industrial clients?

A. They are right now. But they are not an industrial client, no. We do no consulting for them, to my knowledge.

Mr. Esper: Well, if the Board please, if I could just reserve the right to call Mrs. Peters at a later point in time—I have no further questions.

Mr. Volk: I have one, sir, rather remote question. Who is Dora Capwell?

A. Dr. Capwell is the founder of our organization. She died last November. She founded the company in 1945.

Q. Till her death, what was her role in this organization?

A. She was the director.

Q. And what was her sex.

A. Female.

Mr. Volk: Unless there are any questions from the Board, that concludes our case.

By Mrs. Reizenstein:

Q. Mrs. Peters, in your study, I gather based on your experience, seventy percent, you said, of the women had certain preferences. Is that correct?

A. This is from my research that I did—library research—on the basic job. Right.

Q. Well you indicate then that possibly thirty percent of women would have preferences usually thought of as, say, male preferences?

A. I think so, yes.

Q. Would you think that these statistics would be true of other countries, such as Norway, Sweden, Russia? Probably not?

A. Mrs. Reizenstein, I haven't looked at that at all. But from my point of view, I suspect there would be.

Q. Are you aware of the studies that were done, before we had any Fair Employment Practice Laws, that indicated that Blacks preferred certain kinds of work? They used to say, you know, he would be happier doing this he prefers to be a teacher or a preacher — would you say there was any validity to that?

A. I never read any studies that had any evidence, any experimentally derived data, that this was the case. The evidence that I quoted about women has been found from woman herself.

Q. There has been testimony given involving fair employment practice laws in which experts came in

indicating this. Would you say that the fair employment practice laws really help to change the concept of the ability, the preferences, the capabilities of people regardless of race, color, religion?

A. I do not know.

Q. Would you agree that our job as members of the Commission administering fair employment practice laws is to give everybody free choice in job preference?

A. Yes, I think so.

Q. And would you approve of this right?

A. Yes.

Q. And would you say that no one—an employer, an employment agency or a newspaper—ought to do anything that would be contrary to this basic civil rights law?

A. I think that the civil rights law are a positive step toward social change, and I agree that everything must be done to give women who so desire the opportunity to achieve meaningful employment in these fields. I think, however, that there is a certain percentage—the case of the Press—I don't think I would represent the Press if I felt that they were doing anything that was in any sense discriminatory on this level. There is a legitimate body of women who sincerely and meaningfully have said they are interested in certain fields. To not allow them to be, is a certain form of discrimination. And I think that this always has to be kept in mind, that when a woman is told that because she is a woman is wrong, then she is being degraded and told that she has to be a man to be good at her job. And this is kind of a slap in the face to mothers and teachers

and nurses and all those women who do tremendous volunteer work for the joy of it because they are women.

Q. Would it be degrading if I were a feminist and I looked in the Pittsburgh Press and saw, you know, a category "chemist wanted"? Would it be degrading if they didn't say this was a female or a male preference?

A. I think, Mrs. Reizenstein, if I had gone as far as it took to be a chemist I would not feel discriminated against if I saw it that way. Maybe if I started and quit somewhere along the line and regretted my decision and wanted to get back into it, then I might say it was discrimination. But I have never felt that seeing Psychologist listed under male interest—it never bothered me one bit. I would certainly go and apply.

Q. That may be true of you personally and I am sure it was true of many Blacks who rose without the protection of the law. And I am saying that the law is to protect those who are less strong than you are probably as a human being. Do you believe that there is discrimination against women in employment? Has your experience given you any indication that there is any?

A. I know salaries are quite discriminatory.

By Reverend Johnson:

Q. I would like to ask a question concerning conditioning of the mind. Are you saying that you do not feel that advertising produces and ought to condition a person to think along a certain line?

A. I think it can. Definitely. I don't think any one factor is any more important than any other. For ex-

ample, we found one difference between women who work and women who don't work is the fact that their mothers work. It didn't matter whether the mother was a cleaning woman or a Ph.D.; the fact of her working had a lot to do with whether the woman worked. There's a much more permeating strong influence in just being with someone who has a profession, even a neighbor, that is female interest. It is going to be very complicated, I think conditioning.

Q. Mrs. Reizenstein asked a question about whether or not the law, in changing the law, or thinking along certain directions of change. And I think you answered that changing the law by the sex amendment might cause women to start thinking along different lines, perhaps in seeking a profession? Or do you feel that this is something physiological that will not happen?

A. I think that changing the law along sex lines has more specified interests. I think that changing job interests should be handled with care to prevent a violent uprooting of human potential. I think that when attempts are made to deny the possibilities of people being what they are in order to achieve social change, we are getting into an area where we might be going backwards. I am entirely convinced that the emphasis on sexual difference might not be made even greater in order to achieve the maximum amount of social change. And, as I said before, I am not entirely convinced that being masculine is the answer to the problems of society. I think being feminine has a lot to do with it. But I think that trying to negate the difference between the sexes might

not achieve the best result, and that legislation in this area should be done indiscriminately.

Q. You put emphasis on feminity. You talked about the old femininity and the new femininity, would you mind repeating it please, with emphasis?

A. I think in line with the new humanistic psychology, the new feminism says to the woman: be what you are, maximize your potential as such. If you have the gift to give it and to commit yourself to people more, this is needed because you can give it. You can give it more than men can give it. So maximize it. Our society is not a giving society anymore. It could be because masculinity is prized, I don't know. But certainly changes have been effected very rapidly in the way its being going along.

Q. Do you feel that this is wrong as against the old feminism?

A. I think the old feminism didn't do much good for the country. As soon as women got the vote they started prohibition, and a lot of other changes that —they didn't maximize what they could be. I think they just tried to assume a role that someone else had already taken.

Mr. Valadez: If it pleases the Commission we would like to move for adjournment until February 26th, at which time we will present the rebuttal witnesses.

Reverend Johnson: What day?

Mr. Valadez: Thursday, February 26.

Mr. Volk: We have nothing further. Of course we don't know what they will put on. I would hate

to get into rebuttal of their rebuttal. As far as I am concerned the hearing could conclude right now. But I wouldn't object to a continuance.

(A ten minute recess was had)

The Chair: Will you please come to order. The complainant requested, I believe, until the February 26th court, for presentation of rebuttal and then they can understand it is agreeable to the counsel for the respondent and agreeable to the Commission. It was originally intended to have the amicus curiae present their briefs at the end of the case. However, we have been requested by two of the amicus curiae to have the opportunity to present their briefs and their brief—and I underline brief—oral arguments now. So the first oral argument will be made on behalf of the Pennsylvania Human Relations Commission. I believe Mr. Andrew Winikoff, Assistant Attorney General of the Commonwealth and General Counsel of the Commission will make the brief presentation.

Mr. Winikoff: Thank you, Mr. Chairman. The Pennsylvania Human Relations Commission has been involved in newspaper advertising for a number of years. The jurisdiction of this commission over newspaper advertising dates back to its inception as the Fair Employment Practice Commission in 1956. From that time our jurisdiction to regulate the wording of newspaper advertisements has been unquestioned, until recent events led us into some conflicting relations with the Pennsylvania and American Newspaper Publishers Association.

Nevertheless, under Pennsylvania law, it is clear that an employer who places and ad in a "help wanted-male" column has expressed a preference for males only. If that preference is not based upon a bona fide occupational qualification, which may only be given by the Pennsylvania Commission, then that's the expression of an illegal preference and a violation of Section 5 of the Pennsylvania Human Relations Act. Anyone who aids and abets the employer when he places that preference is equally as guilty as an aider and abetter under Section 5E of the Pennsylvania Act.

I think its clear beyond question that the contractual relationship between the Press and any of its advertisers is aiding and abetting in the clear and commonsense definition of the word. Therefore, under Pennsylvania Law, there can be little question that the Pittsburgh Press is guilty of an unlawful discriminatory practice.

When we get down to the Pittsburgh ordinance, which is quite similar to Pennsylvania Law — the coverage is almost identical—there can be no question, there, that the Pittsburgh Press is guilty of an unlawful employment practice as defined in Section 8 of the city ordinance.

Its interesting to note that the U. S. Dept. of Labor held hearings in August of 1969 to determine the style and content of regulations to be issued by the Office of Federal Contract Compliance. Among the testimony given during that hearing was a memorandum from a staff member of "Newsday", which is an extremely large newspaper located on

Long Island in the state of New York. Their research analyst, Donald Gross (and this is noted on page 5 of my brief), noted that they had no trouble whatsoever switching to a single column system, and indeed their lineage had increased 25.6% in the year after the institution of the single column system. I think therefore, that the experience of "Newsday", the "New York Times", and other New York City newspapers, which stated that they had no difficulty whatsoever with the initiation of the single column system, would indicate that the Pittsburgh Press should have equally as little difficulty with switching over to the one column system.

There has been a great deal of testimony on the effect of the want ads on the job preferences of women. I think its interesting to note here that in 1966 the Federal Equal Employment Opportunity Commission did a very extensive survey on the economic status of women and minority groups. This survey called "Job Patterns for Minorities and Women in Private Industry" is a three-volume study. It makes several conclusions, one of which is that women are overly represented in low-paying and low-status positions, and underrepresented in professional, managerial and executive positions. Part of this, I think, is due to the stereotypes that women conceive of, and that men have, when they place want ads. Part of it I think is due to the want ads themselves because the expectations of women are directly based upon those want ads. A woman looking for a job will obviously go to that job for which women are hired.

The placing of a want ad in the men's column is an example of a preference for men, and there is an implied statement therein that women will not be hired. I think that if this Commission is to take a step forward in fighting to end the inferior economic status of women, they must indeed find the Press guilty of an unlawful employment practice as defined in Ordinance Number 75. Thank you.

Mrs. Picker: My name is Jane Picker and I am here as an amicus for the Complainant in this case on behalf of the Women's Equity Action League with headquarters in Cleveland, with members in the State of Pennsylvania and also in the City of Pittsburgh, and also on behalf of the National Association of Women Lawyers.

I really only want to say a couple of things. The first thing that I want to say is that while I have appreciated the testimony, our position is that the headings, per se, violate the ordinance, and it is not relevant whether or not any actual fact of discrimination has occurred against any particular person who has read this newspaper or not.

Secondly, I want to say that we believe that, in view of the fact that the headings violate the ordinance, a newspaper using such headings is, in turn, in violation as an aider and participator in this action, because as we understand it the newspaper selects the headings for the advertising columns and, in turn, from a legal point of view, may accept or refuse any advertisement that is offered. There is no obligation on the part of a newspaper to accept an advertisement from you, or me, or anyone

else. And in view of the fact that the newspaper has discretion both with respect to choosing the heading of the classified ad columns, and of choosing or not choosing to publish a particular ad, that it must accept responsibility for any injurious results coming from this.

The Press and amicus for the respondent have alleged in their brief that they should not be liable, regardless of whether discrimination occurs or does not occur, on the basis of the analogy of false advertising. False advertising is—in the State of Pennsylvania—a statutory offense and, as is common in many states, the statute relieves newspapers and magazines from any liability for false advertising. The brief of the respondent's amicus cites various cases in the field of false advertising to indicate that newspapers are never held liable for any injuries that occur in such a situation. We wish to reject this analogy. We feel that the proper analogy is not in the field of false advertising, but in the field of defamatory advertising. And perhaps if I may give one example it would be the classical example that is used in this field of an advertisement that is offered to a newspaper and accepted by a newspaper, that is completely innocent on its face—for example, that a death notice of a particular individual. And by happenstance, through a mistake, or what have you, this ad by mistake is not put under a column that is labelled "death notices", but is put under a column perhaps labelled "public amusements". This kind of situation is liable per se, and in the State of Pennsylvania, as in most states, a newspaper can be held liable.

Libel is an offense for which both the advertiser and the newspaper are jointly or severally liable, and there are cases in the State of Pennsylvania where an ad that is completely innocent has been held libelous.

I'd like to mention two cases to you and that will conclude my presentation. The first case is a case that arose in Pennsylvania where a newspaper advertiser published an ad saying: come into my shop and bring me a roll of film to develop and I will give you a free roll of film in exchange. The day after this advertisement was published, a competitor of this first advertiser placed an advertisement in the same newspaper. This advertisement, which did not mention the name of the first advertiser in any way, simply said: we do not lower the price of our film processing; we do not present blurred pictures; we do not use inferior chemicals in order basically to provide you with a cheaper service than others. And although this ad appeared in a subsequent edition of the paper it was held libelous. Now we contend that misplacing ads within help wanted columns is virtually the same situation. If an individual does not have an exemption from this Commission for sexually segregated employment then the ad is wrongly placed. We feel this should be considered the proper way of looking at this case.

The other brief point I wish to address myself to, and one other case which is a local case, involves the defense of the respondent that freedom of the press should prohibit a regulation in this particular

area. About five years ago there was a case here in Pittsburgh of a city directory publishing company which puts out a monthly—well something like Pittsburgh Travel Service Magazine. The city had been taxing this particular monthly bulletin for some years. The question involved here was: why was it being taxed when other newspapers were not? It turned out that it hinged on the fact that this particular publisher did not in fact publish his own magazine—it was published elsewhere. He owned no publishing facilities of any kind and an exemption was provided from the tax for manufacturing establishments, and all other publishers qualified for this manufacturing exemption, which he did not. Now since this argument failed him in his effort to fight off city hall, so to speak, he turned to the constitutional argument that freedom of the press should not allow him to be put in this kind of a situation. I would just like to read to you a couple of sentences which the president of the supreme court of Pennsylvania said in this case: freedom of the press may not be converted into license to escape commercial regulations affecting persons engaged in a normal, ordinary business pursuit, such as a vendor of wares and merchandise, including pamphlets, booklets, and printed directories. It is our view that if freedom of the press may not be used to escape commercial regulations assuredly it should not be considered an adequate excuse for violation of federal and state social policy prohibiting discrimination on the basis of sex. Thank you.

Mr. Albright: Mr. Chairman, for the purpose of clarification may I ask you one question, and that is what she would have this Commission do with an advertisement placed by an employer with less than five people, and also with an advertisement placed by an out-of-state employer?

Mrs. Picker: What I would propose would be the following. I would propose that if the Press wished to maintain its present situation of having three separate columns, that this would be perfectly permissible provided it was stated—it was understood — that the notices in the male and female columns were restricted to advertisers who had received bona fide occupational exemptions from the Commission, and that the public would be advised of this one way or another. Now, if in fact this were done honestly there would be, at this time, apparently few or no ads in two of these three columns. If, in fact, exemptions were given by the Commission, we would be very happy to see these advertisements continued in the separate male and female columns and we feel that the present notice to job seekers which is published could be changed only slightly in order to indicate to the public what the situation is. As it now reads it makes it very clear to the public that there is no correlation whatsoever between bona fide occupational exemptions and the classified headings.

While I was here last time I went through the January 16 classified section and I found twenty-two different types of work in the classified ads on that day — which was not very many, since it was Friday — and these twenty-two different types of

work were advertised in two or more columns. In one type of work it was actually advertised in three columns. So that, basically, the notice to job seekers tells you that this system is not for the convenience of the reader because you've got to go through all three different areas.

We feel that the present system — we have no objection to having the type of a system that others have proposed based on agency ads or different types of work — but we also have no objection to continuing the present system provided the sexually segregated ads were restricted to bona fide occupational exemptions.

Mr. Albright: That is the amicus's position that separated classifications can still be maintained regardless of the outcome of this hearing?

Mrs. Picker: It is our position that you can maintain a separate column for something — which I would not call a sexually segregated one, but for BFOE's as we would refer to them. This does not strike us as discrimination because it is not separate on the basis of separate treatment for the sexes; its separate on the basis of a particular occupation. In other words, if you had light work and heavy work; this is two different kinds of work.

The Chair: Thank you .This hearing stands adjourned until February 26.

Hearing of February 26, 1970

NATIONAL ORGANIZATION FOR WOMEN

VERSUS

THE PITTSBURGH PRESS

FEBRUARY 26, 1970

The Chair: I think this is now the complainant's turn, right?

Mr. Valadez: Yes, Sir, Mr. Chairman.

Mr. Esper: May we proceed?

The Chair: Go right ahead.

Mr. Esper: Dr. Sandra Bem, please.

The Chair: Were you sworn before?

Mr. Esper: Yes. Dr. Bem has been sworn at this trial.

Dr. Bem: Before we start, can I ask Mr. Korsak one question?

Dr. Bem, duly sworn, testified as follows:

DIRECT EXAMINATION OF DR. SANDRA BEM

By Mr. Esper:

Q. Dr. Bem, you had testified at an earlier date at this hearing?

A. Yes, I have.

Q. You have been sworn?

A. Yes.

Q. You were here when Jeanne Peters had testified, is that correct?

A. Yes, I was.

Q. All right. Now Dr. Peters claimed, Dr. Bem, that there are psychological differences between the sexes which are rooted in biology. Would you care to comment on that?

A. Yes, I would. As Dr. Peters herself pointed out, much of her theory, many of her statements, were based on a theory by Erik Erikson. I'd like to review that very briefly here . . . . .

Q. Please do.

A. To remind the commissioners. Erik Erikson's theory basically holds that because women are born with an inner space that that their inner space permeates every aspect of their existence, every phase of their life, and that they are therefore more nurturant than men. That because men are born with a penis, that that permeates every aspect of their being, they therefore are more aggressive, more assertive, more thrusting forth into the environment, if you will. He basically agrees with Freud, and I'll quote Erikson here that "Anatomy is destiny." One's psychological role in life is determined by one's anatomical characteristics. This is a quote from Erikson's "Anatomy is Destiny". Now, as Dr. Peters herself put it, because of this "Anatomy is Destiny" theory, one cannot be just a psychologist, for example, one must be a woman psychologist — the fact that inner space permeates your entire existence. Now this is a lovely theory. The difficulty with it, however, is that it is only theory. As Dr. Peters herself testified, there is virtually no direct experimental evidence for this theory. It is basically theory only, and not at all validated.

I'd like to comment on why this theory has not been validated. The reason is that it is virtually impossible ever to tell whether or not a particular outcome that you find, a particular difference between the sexes, is due to heredity, to biology, or to environment. Biology and environment are always totally mixed together in producing any particular outcome, and it isn't possible to separate them, to know how much of the result is the result of biology, how much of environment.

In the one study, for example, which Erikson himself cites, the *only* study in support of his theory, a study which looked at boys and girls and how they build blocks and how they arrange toy furniture, what kinds of configurations they produce out of these kinds of toys, he used subjects who were eleven and twelve year old American children. Now it is clear that by the time a child is eleven or twelve years old, both biology and environment have merged to produce whatever outcome we find, and it is impossible experimentally to separate the effects of environment. So Erikson's theory remains precisely that—a theory without backing.

There is, however, as I mentioned last time, some evidence which contradicts Erikson's theory. I'll review it only briefly, and that's the anthropological data, the crosscultural data which I introduced last time. Even though it is true, as Dr. Peter's said, that there is no society without sex differences—that's true—it is also true that the nature of the differences between the sexes varies from culture to culture. Men and women do not al-

ways behave in accordance with Erikson's theory, and there are some cultures, as I mentioned last time, where just the reverse of what Erikson would predict is found. That is, where the men are nurturant and where the women are aggressive. So Erikson's theory is not supported by these kinds of data. Let me make an over-all statement about this point, at this point in time. The fact is, I think, that psychologists simply do not know whether there are psychological differences between the sexes which are rooted in biology. And until a society raises boys and girls with equal opportunity to choose roles for themselves without being conditioned into a stereotype of what is appropriate for a boy or for a girl, it will simply be impossible to separate the effects of biology from the effects of cultural conditioning. Finally, it's amusing to me that the Pittsburgh Press should try to enlist Erik Erikson on the side of sex-segregated want-ads. For Dr. Erikson has said in print that he feels women should be represented in all of the professions, even in those professions which are considered typically masculine. Dr. Erikson considers its critical that woman's nurturance be represented in every occupation. He does believe that women are more nurturant than men, and he would very much, for example, like to see a woman as president of the United States. It is his opinion that if we could have a woman president, we would have fewer wars. Even if you start out with a biological base, taking the position that women are more nurturant than men, you still come to the logical conclusion that certain occupations should

not be reserved for women and other occupations reserved for men.

Q. Now, Dr. Bem, over and over the question has arisen about whether or not there was a valid analogy to be drawn between sex differences and ethnic relations. Could you comment on that, please?

A. Yes, I think there's a definite analogy to be drawn between racial differences and sex differences. Let me make several points in this regard. First, Dr. Peters testified that there are many studies of sex differences in the psychological literature. And that's certainly true, that is a fact, I would not deny it. But similarly there are hundreds of studies in the literature on the subject of racial differences. In one review article alone, covering only a six-year period from 1959 to 1965, we find 350 references to racial differences—that's in one article alone. So again, there is as much study on racial differences in the psychological literature as there is on sexual differences.

Second, when questioned about the analogy between sex differences and racial differences, Dr. Peters suggested that the differences between the sexes were biological, and she cited evidence in tone perception and other physiological characteristics as evidence for this point. But when asked about racial differences, Dr. Peters said that to her knowledge there were no comparable differences between the races. Dr. Peters is simply wrong on this point. Let me illustrate with just a few examples out of the hundreds of differences which have been found between blacks and whites. We know, for example, that blacks are less likely than whites to be color

blind. We know that blacks are more likely than whites to have 20/20 vision. We know that blacks have a higher galvanic skin response than whites. We know that blacks are more susceptible to sickle-cell anemia than whites. We know that blacks are less susceptible to phenylketomuria than whites. These are all clearly biological differences, and I think fifteen years ago, a commission of this sort might well have heard arguments that because of these biological differences between the races, blacks are more suited for certain kinds of jobs than others. Many of us can recall, I think, the argument that difference in skin pigmentation makes blacks more suited for hard work under the hot sun—work like cotton picking for example, and no one . . .

Mr. Volk: May I object to this? I, what, she's testifying as an expert psychologist. When she's qualified as an expert in testimony before civil rights agencies fifteen years ago, then I will no longer object to her opinionating. But she's now opinionating as to what might have been testified before such a commission as this fifteen years ago. This girl's not qualified to make such a statement. I'm not even sure she's qualified as a psychologist, let alone as a lawyer, and certainly not as a civil rights expert. I'd like her to stick to her subject.

Mr. Esper: If the Commission please, I think that this answer is responsive to the question. Also the question is one that is definitely proper rebuttal, because Dr. Peters had made certain statements that there is little if any differences between racial and sex differences.

Mr. Volk: If she wants to talk about racial differences, if she wants to tell us about the results of studies on racial differences between whites, blacks, and yellows, or whatever other races there are, since we've got to call them by colors now — green, red, black, yellow — if she wants to make this kind of testimony, that's O.K. with me, that's good psychological hard-core data. If she wants to talk about cotton-picking in the hot sun fifteen years ago, she's gotten away from her field and is obviously trying, attempting, to incite the racial sympathies of this board. Nobody brought up cotton picking in the hot sun. This is a racial affect.

Mr. Esper: The words "cotton picking", if the Commission pleases, is only brought up incidentally because of the skin pigmentation.

Mr. Volk: It is brought up as to her opinion as to what might have been argued before this Commission fifteen years ago. This is improper testimony, even under the liberal rules of evidence of a board such as this.

Mr. Esper: Well, I think Dr. Bem is qualified to testify to this point.

Mr. Volk: Dr. Bem was a baby fifteen years ago. She wasn't even around in any meaningful manner.

Mr. Esper: ? ?

Mr. Volk: Some of us do; some of us don't.

Dr. Bem: Is appropriate for me to make one comment here? It's just that . . .

Mr. Volk: Not as far as I'm concerned, it isn't.

Mr. Esper: Dr. Bem, we have to get the ruling from the Commission.

The Chair: I hope we can. As to the specific reference as to what could have been argued fifteen years ago, we will sustain your objection because we as a body, having experience, can take judicial notice of what we know. As to biological differences, I take it you would not object.

Mr. Volk: No Sir, that's proper evidence.

The Chair: As to what could have been fifteen years ago as to the distinction between the job opportunities, we have enough evidence (not in this case), but we have close judicial knowledge of arguments that we do and because of this we would sustain and ask the witness to proceed.

Q. Well, Dr. Bem, then, subject to that restriction, will you continue your testimony?

A. Yes. The primary point I am attempting to make is still present, and that is that, just as Dr. Peters pointed out, certain biological differences between the sexes, so there are clear-cut biological differences between the races, several of which I have just listed previously. Let me go on to a third point. Dr. Peters cited evidence to the effect that there are differences in job preferences between men and women, but she denied knowledge of any such diffrences between the races. Once again, a review of the literature indicates that Dr. Peters is in error. Racial differences have been found on the kinds of vocational interest tests that Dr. Peters, it appears,

uses in her own work, The Strong Vocational Interest Blank, for example. And in a 1968 review of racial differences in America, it was found that blacks are more likely than whites to prefer blue-collar and military jobs. In other words, there are differences in job preferences between the races, just as there are such differences between the sexes.

A fourth point: Dr. Peters points out that certain jobs, like nursing and teaching, were filled predominantly by women in 1900, and that they continue to be filled by women today. She concluded that women must have biological tendencies in those directions and if women had strong motivation to seek out other positions, they would have done so by now. But similarly, many jobs in our society have been filled predominantly . . . many jobs which were filled predominantly by blacks today, and I think that there are other than biological arguments to be raised as explanation in each case.

Finally, even though psychological differences in job preference, for example, have been found between the sexes, just as they have been found between the races, it is impossible to know for sure to what extent these differences are caused by biology, and to what extent these differences are caused by cultural conditioning. The two always interact, and in any adult, any time you see a difference between two groups — racial groups, sexual groups, or other groups — it is virtually impossible to tell experimentally whether those differences are caused by cultural conditioning, or whether those differences are caused by biology. That's equally true in the

case of racial differences as it is in the case of sexual differences.

Q. Now, Dr. Bem, what then is the relevance to this hearing, or to social policy in general, of the kinds of differences which do seem to exist between the sexes?

A. Finally, I find myself in a position where I have to agree with Mr. Volk. I think that the argument about racial differences is totally irrelevant to this hearing. Let me go back to a point I made in my earlier testimony. Any time you find a difference between two groups, whether that be in height and physical strength, whether that be in nurturance, no matter what it is in, it is always an average group difference. It says there is a mean difference between the two groups, but you will always have overlap between groups. As I said earlier, even though men on the average are taller than women, you will always find tall women; you will always find short men. Even if it turns out to be true, and we do not know it at this time, I'm not saying that I agree with this. Even if it turns out to be true that women are on the average more nurturant than men, there will always be nurturant men and unnurturant women. Even if it turns out that men are more aggressive than women, there will always be aggressive women and nonaggressive men. Even in Dr. Peters' own testimony, she stated that in her studies she has found that 30 percent of women show male job interest patterns. This is a substantial percentage of the population, and it cannot be ignored. It demonstrates my point once again — not all men and not all women are different. The differ-

ence only represents an average difference and is always overlaped between the two groups. But the argument about sexual differences and racial differences is irrelevant for still another reason. I think we're all aware of the fact that America believes in. . .

Mr. Volk: I'm going to object to legal conclusions of the witness. The witness is on here to testify as an expert psychologist as to fact, not to her belief of what America believes in. I think we have had enough speechmaking by diverse people supposedly called as witnesses to testify as to facts.

The Chair: As to the American belief, we will sustain your objection if you have some data. . .

Mr. Volk: I would not object to data.

Witness: Let me start over. The differences between the sexes and the differences between the races, I think, are irrelevant for still another reason. If we were to found any policy upon the principle that there are no differences between groups, we would be in a sorry state. Let's take a very important behavioral difference, like intelligence — something that's critical to the world of work. I think you'll all agree we discover that there are differences between groups. We know, for example, that on intelligence tests, orientals tend to outscore whites, Indians tend to outscore blacks, and Jews tend to outscore Christians. This appears over and over again. The question I would raise is simply "if this difference may now be due to cultural factors, it may be due to a fault of the test." We don't know, but the possibility remains, and there's con-

troversy raging about this in psychology—that it may also be due to biology. The question that I would ask is simply that "if it turns out that the differences between groups are biological, where does that leave us on the question of whether groups should be treated differently?" All I'm attempting to say is that even if biological differences between groups turn out to exist, in something like intelligence, for example, will we be led to conclude that we ought to treat groups unequally on the basis of that biological difference? I think we can't wait around to see if there are no differences between groups before we commit ourselves to a position of equal treatment for all groups.

Q. During the last hearing, Dr. Bem, Dr. Peters expresed the opinion that sex-segregated want ads in and of themselves have no effect on job preferences. In your earlier testimony, you began to describe a study which would bear on this point. Has that study been validated statistically?

A. Yes, it has.

Q. Would you describe it?

A. Yes. This is a study done specifically to ask the question whether or not sex-segregated want-ads, themselves, discourage female job seekers from being interested in or applying for jobs listed in the "Male Interest" column. In the study there were 52 women attending Carnegie-Mellon University. They were asked to rate each of 32 jobs which had been advertised in Sunday editions of the *Pittsburgh Press*. Sixteen of the ads had been drawn from the "Male Interest" column and sixteen had been drawn from the "Female Interest" column. Each woman

was given a booklet containing all 32 ads. She was asked to read each ad in her booklet and to rate it on the following scale: She was to give it a +3 if "you would be definitely willing to apply for the job"; a +2 if "you would be quite willing to apply for the job"; a +1 if "you would be somewhat willing to apply for the job"; a —1 if "you would be somewhat unwilling to apply for the job"; a —2 if "you would be quite unwilling to apply for the job"; and a —3 if "you would be definitely unwilling to apply for the job." The women were told to assume that they had the necesary prerequisite for each job: "We are only interested in your preferences, not your skills." In other words, there were 32 ads in all, and the women were to rate all the ads.

There were two major conditions to this study. One set of booklets showed the ads in sex-segregated format; the other set of booklets showed the ads in integrated format. Let me describe those conditions.

First the sex-segregated condition. Half of the booklets listed the ads in a sex-segregated format identical to that used by *The Pittsburgh Press*. The 16 male jobs were listed in alphabetical order in a column labeled "Jobs—Male Interest." The 16 female jobs were listed in alphabetical order in a column labeled "Jobs—Female Interest." Half listed the male jobs first and half listed the female jobs first. In addition, the following disclaimer, quoted verbatim from *The Pittsburgh Press*, appeared on every page of the booklet, and I quote:

"Notice to job seekers:

"Jobs are arranged under Male and Female

Classifications for the convenience of our readers. This is done because most jobs generally appeal more to persons of one sex than the other.

Various laws and ordinances—local, state, and federal — prohibit discrimination in employment because of sex unless sex is a bona fide occupational requirement. Unless the advertisement itself specifies one sex or the other, job seekers should assume that the advertiser will consider applicants of either sex in compliance with the laws against discrimination."

That was the sex-segregated format. We attempted to duplicate in every way the procedures used by *The Pittsburgh Press.*

The other condition was integrated want ads. Half the booklets listed the identical 32 ads in alphabetical order and with no sex-labeling at all. The disclaimer again appeared on every other page of the booklet, but with its first paragraph deleted.

No one in the study, I should point out, was aware that there were two conditions going on. The women had simply been told that we were interested — taking a job interest survey; each woman assumed that all the booklets in the study were exactly like hers. So the women were unaware of the fact that some booklets were segregated and some booklets were integrated.

Let me describe the results. These results have been evaluated for statistical significance, by the way, to insure that they did not occur by chance.

They are significant at the .02 level of confidence by a chi-square test.

The results, then: Do sex-segregated want ads discourage women from seriously considering those jobs which *The Press* classifies as "Male Interest"? Our results show this to be the case. When jobs were segregated and labeled on the basis of sex, as they are in *The Press*, only 46% of the women in this study were as likely to apply for "Male Interest" jobs as for "Female Interest" jobs. In other words, a majority of the women did prefer "Female Interest" jobs in the sex-segregated format. But does this really reflect a true preference on the part of women for so-called "Female Interest" jobs? It does not. For when these same jobs appeared in an integrated alphabetical listing with no reference to sex, fully 81% of the women preferred the "Male Interest" jobs to the "Female Interest" jobs. So preferring "Female Interest" jobs seems to be an artifact of the sex labeling.

For example, the job of newspaper reporter fell in popularity from 7th most popular place when it appeared in the integrated listing to 19th place when it was segregated and labeled as a "Male Interest" job. It seems clear that any newspaper editor who wishes to hire only male reporters—in violation of the law—can place his ad in the "Male Interest" column, secure in the knowledge that this will effectively discourage many female applicants. It is in this way that sex-segregated want ads can "aid and abet" discrimination in employment on the basis of sex.

But what about actual job seekers? What can we infer from this study about the effects of sex-segregated want ads on actual job applicants? Can these results be generalized to the real job-seeking situation? It is my view that, if anything, this study probably underestimates the extent to which sex-segregated want ads discourage female applicants.

First, we required the women in our study to rate every ad regardless of how it was labeled. We suspect that many women never even bother to look at those ads which appear in the "Male Interest" column, and, indeed, several of the women in our study explicitly stated that it had never previously occurred to them to look for jobs in the "Male Interest" column.

Second, we asked the women only to indicate whether or not they would be willing to apply for each job. They did not, in fact, have to expose themselves to the risk of encountering discrimination by actually applying for "Male Interest" jobs. Clearly it is easier for a woman to say she will apply than it is for her to actually apply.

Third, in our study, the disclaimers occupied 13% of the available space in the booklet. This rendered them far more prominent than they would be in any full page of classified in a newspaper. (For example, even if *The Pittsburgh Press* published the disclaimer on every page of classified advertising, which it does not, it would still occupy less than 3% of the page.) In my opinion then, this study would seem to underestimate the extent to which sex-segregated want ads actually discourage

women job-seekers from applying for "Male Interest" jobs.

There is one final point about this study that I would like to make. You will recall that in an integrated setting, 80% of the women preferred "Male" jobs. What this says is that *The Pittsburgh Press'* method of separating jobs into male and female categories does not correspond to true preferences of women. It is worth pointing out that it does not correspond to Erikson's distinction between nurturant and aggressive jobs, and, in fact, as the amicus brief of the Women's Equity Action League reveals, there is a fairly sizeable overlap between the jobs in the "female" column. In fact, the only thing the *Press* categorization does seem to correspond to is employer preference. Based on Mr. Seli's own testimony, it seems to me that the columns would be more appropriately labeled "Employers Who Prefer a Male" and "Employers Who Prefer a Female", because the categorization does not correspond to any known or discussed preference difference between males and females themselves.

I have one final question to ask Dr. Bem. Dr. Peters made a distinction when she testified between the "old feminism" and the "new feminism". She claimed that "old feminists" wanted to be like men, that they were trying to create a unisex. She said that the "new feminism" doesn't believe that women can reach self-fulfillment by being like men. How do you see this question?

I'd like to respond to that briefly. But before I do, I would like to ask something of the Commissioners and that's I am the author . . . my husband and I

are the authors of a published paper on this question about "new feminism" and "old feminism" and on the cultural conditioning of the girl in our society. It would be much too lengthy to read here and, if appropriate, I would like to enter it into the record as testimony without actually reading the entire paper or to make it available to the Commissioners before I respond to this question.

Mr. Volk: In the opinion of counsel for the respondent, any paper that has been published in a recognized profesional journal is in the nature of law review articles or other authoritative documents which we believe should be admissible in the brief and referred to in the brief. So we wouldn't object to, if this thing has been published,

Dr. Bem: It has.

Mr. Volk: To its inclusion in Counsel's brief. I would suggest that, just suggest, that this be done as a matter of perhaps shortening the proceedings.

Mr. Esper: What do I understand the Commission to do? I have the article. I could identify it.

Mr. Volk: You could distribute it. I don't care what you do; it can be distributed if you wish.

The Chair: If you want to distribute it now, append it to your brief, whichever is your preference.

Mr. Volk: The problem with using articles such as this in their full-text context is that the hearing is going to get into rebuttal testimony on what's in there and these things could drag on forever.

The Chair: I would think that you would make reference to it in the brief and attach it.

Mr. Volk: We would probably have some similar documents we want to include in our brief, that's why I raised that question.

Mr. Esper: The only reason I think Dr. Bem wanted to introduce this at this time rather because of its length and she doesn't want to read it in. We would be happy to submit it as part of our brief. Appended to it. O.K., Dr. Bem, would you then.

A. Let me respond to the question briefly then — the distinction between the old feminists and the new feminists and where I stand. Basically at some level I am with Dr. Peters, but in my opinion she doesn't go far enough. Dr. Peters is very much opposed to the idea of unisex, that is, one role for everyone, regardless of whether they are male or female. And I too am totally opposed to this point of view. Never have I in my spoken or written statements ever used the word "unisex". I am not in favor of that. But Dr. Peters seems to be replacing one role for everyone regardless of sex with two roles depending on sex. I have the feeling that she is advocating a position of let's have nurturant females and aggressive males, two roles rather than one. I would not be willing to classify myself as an old or a new feminist, but, if you will, let me use a new word, *new humanism*. If there is a value that I hold above all else it is the value of individual integrity, that the individual is to be held above everything else. Just as I do not think there should be one set role for everyone, neither do I think that there should be two set

roles, only two kinds of people rather than one. I do not believe in role stereotyping. In other words, only two roles depending upon your sex.

If one truly believes in the integrity of the individual, he was created with individual choice, then it is inappropriate to set up stereotypes of what is appropriate behavior for males or females, or for blacks or whites, whether those stereotypes are based on Erickson's theory, on Peters' preferences, or on preferences of one sort or another. To the extent that you set up signposts which say "this role is for you by virtue of an accident of birth, like sex or race," then to that extent you are sacrificing the value of individual integrity and of freedom of choice for the individual, and it is to those values that I adhere. Therefore, I would put myself in a position called humanism rather than old or new feminism.

Mr. Esper: Cross examination:

CROSS EXAMINATION OF DR. SANDRA BEM

By Mr. Volk:

Q. Let's talk about your experiment. How many women did you say were involved in this?

A. Fifty-two.

Q. Fifty-two women. Where did you get these ladies?

A. They're students at Carnegie-Mellon University.

Q. In what school, what curriculum?

A. Fairly well divided among the Humanities and Social. I would say, I would think, predominately Humanities and Social Sciences Curricula.

Q. Predominately the Humanities and Social Sciences Curricula.

A. Some from the Engineering and Science Curricula.

Q. None?

A. Some.

Q. Some. How did you get them . . . how did you recruit them?

A. In Introductory Psychology, students are required to participate in psychological experiments. They are given experimental credit. In other words, each student is required to put in three hours of experiments—to attain three hours of experimental credit. A research assistant simply went to the Introductory Psychology class and asked for female volunteers to participate in an experiment. That's how.

Q. How many of them were members of the National Organization for Women?

A. I don't think there is any such chapter on the Carnegie-Mellon Campus, so I would expect none.

Q. None? I'm sure you intended to respond to the question, but didn't quite. Do you know how many, if any, were members of this organization?

A. No. but to my knowledge there is no organization . . . well . . . I am a member of NOW, and I have some knowledge about who belongs to NOW in the City of Pittsburgh. And to my knowledge, no student at Carnegie-Mellon belongs. In addition, there is no chapter of NOW on Carnegie-Mellon's campus, and as a result, I think that none are members of the National Organization for Women.

Q. Did you inform the students that the purpose of your study was to be used in this litigation?

A. Again, the students were informed that this was a job-interest survey. They had no knowledge of the fact that I was the one doing the study; they had no knowledge that the study was to be used for this kind of purpose, and they had no knowledge of the fact that this was an experiment. From the student's point of view, every booklet was identical to the one she was writing on. She was unaware of the fact that some of the booklets were integrated and some of the booklets were segregated. There was every attempt made to see to it that there was no biasing of the results in this experiment.

Q. As I understand the experiment, each girl got only one booklet.

A. Right.

Q. Some got the segregated booklet, some got . . .

A. Half got segregated, half got . . .

Q. Which would have made about 22 each, is that right?

A. Twenty-six.

Q. But there were 46 . . .

A. Fifty-two girls.

Q. Fifty-two, and so half of them got one booklet, and half got the other. That's not a very high cut in statistical sampling. How significant is the .02 level of confidence?

A. Psychologists require . . .

Q. Tell us the percentage, the odds of that happening much. That's normally the way we . . .

A. Two percent; that's what the .02 level means. Psychologists require, in order to count any result as valid, that your statistics demonstrate that they would have only occurred by chance at a 5% level

of probability. So .05 is the level of confidence typically required. We found .02 level of confidence; that's what the statistics indicated.

Q. And the odds are two out of a hundred that this could have occurred. These results in this experiment could have occurred by chance.

A. Right.

Q. Did you try a similar experiment with men?

A. We did not. Because we did this study primarily for the purposes of this hearing, it seemed to us that the question of real interest was whether or not female job applicants were discouraged. I would expect, but I did not conduct a study, similar results for men.

Q. You have said that you, personally, don't favor unisex. But you favor humanism. They are both popular words, I guess. I guess they both have meaning to the participants or they wouldn't use them. You don't believe in unisex. Do you believe in differences between sexes, is this correct? It isn't your personal desire to have everyone wearing . . . Rudi Guernrich's (however you pronounce his name) fashions with everybody wearing the same clothes? They're acting in the same manner at all times. This is not what you desire personally?

A. I am basically against . . . relatively unconcerned about the way people dress. I don't want everyone to dress alike anymore than I am willing to say that I want everyone to dress differently.

Q. I believe you said you encourage, or personally favor, differences between the sexes.

A. I said that at this point in psychology, it is not known whether or not there are any biological differences.

Q. You said that earlier in your testimony. I'm talking about later in your testimony, when you said that you personally did not favor unisex. I believe you used those words.

A. What I do favor, I said, is . . .

Q. *But* what I'm interested in now is what you *don't* favor; we'll get to what you *do* favor. And you *don't* favor unisex.

A. I do not favor one role for all people regardless of sex. That is appropriate, that's true.

Q. And you favor generalized variances between the sexes based on sex. You made that thing about that little difference.

A. Yes, I think whatever differences there are between the sexes are fine, great. I think that's why the human species has survived as long as it has, and I have no interest in doing away with it.

Q. But you have also said that culture—I believe you said — that culture impresses the differences between the sexes, that it reinforces roles within boys and girls, as they grow up, to produce . . .

A. Not that . . .

Q. To produce differences which are primarily sexually constant. Is that true?

A. What I said . . .

Q. Or is it only anatomical differences between the sexes?

Mr. Esper: Here, here. You asked a question!

Mr. Volk: Well she won't let me finish the question, so I have to interject.

A. I keep thinking you're finished. Are you finished?

Q. Yes, if you understood me.

A. I think I did. What I said is that there are sexual differences in all cultures; that is to say, that men and women do not behave exactly alike. There are some cultures in which they behave very similarly, but in most cultures men and women do behave differently. What those differences are differ from culture to culture, so it is not just a matter of culture taking certain biological differences and reinforcing them, but rather on top of whatever biological differences may exist, and we do not know what they are, the culture seems to pick some additional feature and decide to use that to accentuate the difference. They are not necessarily fundamentally sexual in nature.

Q. That's not responsive to my question. I'm trying to determine whether or not you favor cultural distinctions between the sexes in this culture; the one we happen to be mired in right here. Do you or don't you? I thought you said you favored sexual differences. I'm trying to determine that they must be cultural.

A. To the extent that those differences reflect real differences between the sexes and not some imposed myth about the differences between sexes, then certainly I have no objection to differences between the sexes of that sort.

Q. If you're going to have differences between the sexes, and you've admitted that no one grows up entirely free—I mean that all cultures have sex roles of some kind—then our culture is going to reinforce the differences between the sexes. It is going to establish them if they don't already exist biologically.

A. Not logically, no. If there aren't biological differences between the sexes, a culture need not establish them.

Q. I think that even NOW has concluded that there are certain anatomical differences between the sexes. I don't think they've gone quite that far. And I think you have concluded that there is no such thing as a sexless culture—every culture has sex roles and sex differences. I thought that you had testified that you favored this; that you were not in favor of unisex; that you are in favor of sexual differences, and that these differences must necessarily, therefore be at least partly cultural.

A. I do not see the only alternative to unisex as being sexual differences. It goes one step away from unisex in what I consider a positive direction; namely, it recognizes that all people are not exactly alike and that therefore one ought not to expect all people to fill exactly the same role. However, this seems to me only to be moving slightly farther away from, only slightly away from unisex, and the point it makes is that there are differences between people. And to the extent that the culture allows those differences between people to develop and to flourish and to thrive, then to that extent the culture has moved away from unisex. I don't think *two* roles is very far away from unisex. I'm just suggesting that to the extent that there are biological differences between the sexes, then fine. I think that they are responsible for the survival of our species, and I think that that's great. But to impose more differences on top of that biology seems to me not in keeping with the value of individual integrity and to be very close to the concept of unisex.

Q. You testified that this happens at a very early age within the home. Would you want us to stop raising little boys to be little boys and little girls to be little girls? To dress them all in yellow instead of pink and blue when they're babies. What is it you're really advocating? It seems to me that if you're going to . . . you're dressed, obviously dressed, as a woman, very attractively so. You're not wearing a caftan, or whatever it is that the designer who promotes unisex is trying to get us all to wear. You're wearing a very attractive dress. I assume your hair is one as a woman, even though that's getting harder and harder to tell apart these days. But yours is obviously feminine. I assume . . . we'll forget your family status. If you have children, are you going to raise them all in a sexless culture? Or do you intend to raise little boys as little boys and little girls as little girls? If you do that, are you not reinforcing the very stereotype that you come here to oppose?

A. You ask many questions. Let me respond to the one of how would I raise children, and what would be in my opinion ideal, the ideal for raising children. And once again, let me begin with my value of the integrity of the individual. You come very quickly to the goal that I would see as ideal. There are some biological differences between the sexes, and that's fine. Let's not do away with them, but let's not necessarily add thousands of additional differences which are not biological on top of them.

Q. We start adding them in the home . . .

A. I was just going to get to . . . What I would advocate doing with my children, although I certainly

would not suggest making a law that everyone must treat their children in this way.

Q. I assume that's next, but go ahead.

A. What I would see doing is simply treating each person as an individual. And if my daughter comes home from school all excited about a biology class, I will be as likely to encourage her to think of becoming a pyhsician as I would my son. It seems to me that while I will make no fuss whatever, and could not be less concerned, about seeing to it that they all dress alike, I see no reason for that, on the other hand—I see no reason for prescribing from birth the role that the girl or the boy is to play in life. We know, for example, that at this point of time the majority of America's married women are full-time homemakers. Now the interesting thing about this society, which claims to value individual integrity, is that it is predictable on the day of birth how a woman will be spending her time some 25 years later. I consider that a violation of the value of the individual integrity because it basically says that by virtue of an accident of birth (what sex you happen to be born), her life style, her role in life, has been completely determined. That violates my value of individual integrity.

Q. Your statistics that show that just because a majority of women want to be mothers and housewives doesn't indicate that the substantial minority isn't free to go off in some other direction. Unless you want to do some positive legislative act to stop the majority from freely choosing to be housewives. I don't know if that's what you advocate or not. I simply can't tell.

A. I'm simply stating a statistical fact, that most women . . .

Q. You seem to say it's bad.

A. No. I'm saying that most women, regardless of education, regardless of aspirations, regardless of motivations, regardless of almost anything that is true about them as unique individuals, end up in the role of full-time homemakers solely because of their sex. At no point do I say that the role of homemaker is superior, nor do I say that it is bad that a woman or a man should freely choose to be a homemaker. I'm only saying that if you believe in the value of individual integrity, then it is appropriate to leave all options open to children as they are growing up as to what role in life they will want to play.

Q. Dr. Bem, you've already testified, I believe, in your previous testimony, that these options begins to be closed at the date of birth of a child when he's brought home in a blue blanket instead of a pink blanket if he's a little boy. Now if these pressures continue through the pre-school years and the prepubescence years, in the home, in the school, in the culture, on television, in the newspapers, and other means than the want ads, until about the time that the child is in high school, his role has been to a large degree stereotyped in his own life. This has been impressed on him by outside culture. Now you haven't testified, as far as I'm concerned, that anything in your own style of childbearing that would stop reinforcing these cultural differences except that you said that you would encourage a child who wanted to be a biologist to be one. Now that's role counselling at the high school level. If you really be-

lieved what you have argued, I believe you would stop little girls from playing with dolls and force your little boys to play with dolls . . .

A. No, that does not follow. I am not interested in turning boys into girls or girls into boys. I am only interested in leaving the options open. What I would do, if my little boy played with dolls was not to tell him that it is a sissy thing to do, nor would I tell my girl, if she played with dolls, that that was a bad thing to do. I would simply allow children to be exposed to stimulation of various sorts, what would typically be called masculine and feminine, and let their individual interest patterns take over. You asked the question, what can we do about children, you know, is there any way to have them not fit perfectly into that role. Dr. Peters herself testified that the primary finding, which occurs over and over again, is that women who want to work tend to be raised by mothers who work, that simply having a role model of a working mother is a primary determinent in terms of little girls choosing a role that is different from traditional ones.

Q. Well I've also read, and I believe the studies will verify these, that many homosexuals tend to be raised in families without a male stereotype; that is, without a father, a male image. Is this true in the psychological literature of your. . . .?

A. I do know that psychological literature. That's a good question. In fact, the pattern of relationships between the parents of homosexuals is not quite as you have described it. Let me describe it for you. We tend to find several patterns. First of all, when there is both a mother and father present we tend to find

the mother who constantly demeans the husband, or we can find a father who is cold and rejecting of the children, particularly the sons, or we find a mother who is very seductive toward her sons, or we find a mother who is very smothering of her sons, who just totally devotes her love and attention to them. We do not necessarily find any evidence to the effect that if a — I forget exactly how you phrased your question — that simply having a mother and a . . .

Q. Just essentially I'm speaking of fathers, of course, without a male image.

A. The pattern is not one of simply a fatherless home, but rather, where a father exists, that the father be cold and rejecting of his sons. Notice that the kinds of change I am suggesting in roles would be less likely in my opinion to produce homosexuality, precisely because if we raised boys, in our culture, so, they would be able, without feeling unmasculine, to express warmth and gentleness and love and compassion to their sons, without feeling somehow unmasculine. The difficulty in the background of the homosexual seems primarily to be the father who is not able to show that kind of affection.

Q. Is there not a strong statistical incidence of homosexuality in the fatherless home?

A. I do not think that is the case.

Q. You do not think so?

A. No.

Q. Well I gather, as near as I can tell, that you are not opposing cultural destinations which lead to, tend to, pressure, or gently pressure, at least, as we think, into sexual selected roles.

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A. As I said, I am opposed to any stereotyping which pushes people, by virtue of an accident of birth like race or sex, into roles purely on the basis of stereotyping.

Q. But any culture is going to, in a large degree, do this, isn't it? And this is going to express itself in tendencies toward job preferences between the sexes, isn't it?

A. Between the sexes, but between any other group as well. We also find that same pattern between the races.

Q. Let's talk about that for a little bit. We've talked about the biological differences between the races. I think we all know the more obvious biological differences between men and women manifest themselves, or a means at least, in certain physical qualities — strength, speech, what have you. I am not personally aware that the physical differences between the races so manifest themselves. Perhaps I am in error. Is there any statistically significant differences between the musculature of the black races?

A. There is a fascinating . . .

Q. And first, I think if we are talking about differences in races, we have to talk about pure races, since there are very few purely black people in America, I don't know how you could segregate that out and if you're talking about black races. What type of black races? You have the seven-foot high Massei and you have the four-foot pygmies in Africa — so there are obviously anatomical differences. I challenge your statement that there are significant physical differences between the races as we find them

in America today, and I ask you to reiterate how that can be.

A. There are studies done in America today, which indicate that despite the fact that there has been intermarriage between the races in America today, that despite that fact, nonetheless, on the average, by nine hours after birth black infants are more mature on physical kinds of dexterity tests than white infants — by nine hours after birth! That there . . .

Q. Does that continue to the job holding years?

A. Well, we do find, if you look around in the world at large, that blacks seem to have surprising athletic ability as compared to whites and it's unclear among expert psychologists as to why this is so. We find a disproportionate number of black basketball players, for example, and while I may agree with you that this may be simply environmental, the fact remains, here, as in the case with job preferences, psychologists do not know the answer to that question. By nine hours after bith, physical differences in terms of dexterity in something like athletic ability do appear between the races, whether or not that's whats showing up later is simply unknown at this point, so it may be biological . . .

Q. Take your differences as you listed them at the time and I don't know how many of them I jotted down; but sickle cell anemia is simply that. That's an illness that occurs in small instances in blacks, does it not? It only occurs in blacks, but is not an epidemic disease in anybody. It is a rare disease, is it not?

A. Well, tone threshold and that sort of thing. Dr. Peters mentioned it also . . .

Q. We're talking about sickle cell anemia. We'll talk about Dr. Peters on rebuttal. We're talking about my questions. Sickle cell anemia is a rare illness, is it not? Relatively rare.

A. Less rare in black than in whites, but . . .

Q. I don't think it ever occurs in whites, as a matter of fact, from my reading on the subject. I am asking you if it's a common illness. It is an illness, it is not a physical condition.

A. Well, it is a physical condition, yes, an illness is certainly a physical condition.

Q. It is a susceptibility of the black races to a given specific disease, is this not correct?

A. Right, and we find that blacks are more susceptible. That's the way I stated it: blacks are more susceptible to sickle cell anemia than whites. That's exactly as I stated it.

Q. Sickle cell anemia is hardly a criteria for what produces a difference between job preferences.

A. No, but there are some of the other distinctions I said. Like that blacks are more likely to have 20/20 vision, might well be, or that blacks are less likely to be color blind, might well have implications in terms of jobs.

Q. It certainly could. Airline pilots, train engineer . . .

A. And I suspect that . . .

Q. It would hardly be significant . . .

Mr. Esper: I think you should let her finish.

Mr. Volk: Well if I let her finish I'll never get the next question. Dr. Bem is a very voluble person and I think we have to let the Commission

determine when she's finishing an answer and when she's making another speech. The differences that you talked about in, vision, which while they may be statistically significant are slight at best, would hardly manifest themselves in the want ad pages of the newspaper.

A. It seems to me that psychology bases its conclusions on evidence which indicates statistical significance. Just as we find biological differences between the sexes which are statistically significant, so there are biological differences between the races which are statistically significant. In my opinion, no, I don't think it should show up on the sex segregated or race segregated pages of the classified ads. But the same thing follows that we're talking about — statistically significant differences between the sexes. The analogy still holds it seems to me.

Q. Mrs. Bem, referring back to your experiment now, do you know the exact percentage of these young ladies who were preparing themselves for a technical career?

A. I do not recall the exact percentages. I do know it was quite small, because most of the girls in the sample were humanities and social science majors, as I said. It may have been three or four.

Q. I asked you that because Dr. Peters testified that people who prepared themselves for a "male" career tend to be less influenced by where jobs appear in the newspapers than people who have prepared themselves for another career; or as one of our earlier witnesses for the complainant testified, who prepared herself to be librarian and now wants to

run something. It's not clear what she wants to run, but, she wants to run something.

A. I don't know of any actual data that says that women who are preparing themselves for technical careers are more likely to look in the "male interest" column, however.

Q. In this experiment, did you remove the other "attractive" variables such as salary?

A. No, we did not. However, we did attempt in picking jobs to match jobs from the male and female interest columns so that there would not be an inordinate difference. It is very difficult to arrive at female jobs that are equally attractive as those in the male category, but we did attempt to match them in terms of those kinds of, as you call them, attractive attributes.

Q. Dr. Peters tells me that girls at that age — college age — are highly motivated, and very, very susceptible to all forms of job attractions — romance in a job — as opposed to a job as a career, as a means of making a livelihood over the long haul. Did you make any effort to screen that variable in your experiment?

A. Well, if anything, it would work against us, if that's the case, because one of the jobs, for example, in the female interest column was stewardess. Now there is almost no job in our society whose public relations says as much that this is a glamorous job to be done in the meantime. That was on the list and it did not fare as well as some of the less romantic, less glamorous, male interest jobs. So if anything that should have biased our results against us.

Q. I have nothing further.

Mrs. Reizenstein: I was interested in Mr. Volk's question as to whether you made a study with a group of men. Do you believe that the want ads might discourage men from applying for jobs that are listed as a female preference.

Dr. Bem: I have one bit of data to cite in regard to that question. We did a pilot study at Churchill High School in which both males and females participated and one of the things that we found happening over and over again was high school males raising their hands and asking the question: "Do I really have to rate these female jobs? I mean, they're for females." And there was some resistance even to reading the jobs and rating them. So I think that yes, in fact, labeling a job "female" in our society also says to a male that this is a job that you really shouldn't be interested in — don't bother looking at it.

The Chair: Thank you very much.

Mr. Esper: Mrs. Anderson, please.

Hearing of February 26, 1970.

MRS. RUTH ANDERSON, witness for NOW, having been duly sworn, testified as follows:

DIRECT EXAMINATION OF RUTH ANDERSON

By Mr. Esper:

Q. Would you give your name and address?

A. Ruth Anderson, 813 Valley Street, Oakmont, Pa.

Q. Mrs. Anderson, what is your occupation?

A. Domestic.

Q. And as a domestic, have you had occasion to use the facilities of the want ads of The Pittsburgh Press?

A. I have.

Q. And would you tell us on what day and for what purpose?

A. Well, I'm always looking for more work. I was looking for more work at the time. It was January 20th.

Q. For what particular job, and in what column were you looking on January 20?

A. Well, the only thing that was available was dishwasher.

Q. And did you find an ad?

A. Yes, I did.

Q. And what happened when you responded to that ad?

A. Well, I called. I didn't get a definite time of appointment. He said I could have an appointment, but he didn't give me a definite time.

Q. When you said "he said," was this the proprietor, the man who placed the want ad?

A. Yes.

Q. And when you called a man answered?

A. It was a man that answered.

Q. And you tried to get an appointment?
A. Yes.
Q. And what do you recall?
A. He didn't give me a definite time for an appointment.
Q. What action did you take?
A. I went home, and was down talking to a cousin of mine. And he suggested that he call and see if he could get a definite time of appointment. And he called and did. For the both of us.
Q. This ad that you responded to, was that classified under jobs—male interest or under jobs—female interest?
A. Jobs—male interest. I didn't see any under jobs—female interest.
Q. You didn't see any dishwashing jobs under jobs-female interest?
A. No.
Q. Now, your cousin suggested — what was that he suggested to you?
A. That I go home—I had slacks on—he suggested that I go home and change my clothes and he'd call and see if he could get an appointment for the two of us. A definite time of appointment.
Q. The cousin you are referring to — is that a male or a female?
A. He's a male.
Q. And did you get an appointment?
A. Yes, we got an appointment for the two of us.
Q. And what, if anything, transpired when you went there to the place of employment for the appointment?
A. When we got there the man sort of said at first that the job was filled.

Q. Did you arrive there with your cousin?
A. Yes. The two of us was there.
Q. I see. And this man who talked with you said the job was filled? The job of dishwasher.
A. Yes, that's right.
Q. And then what happened?
A. My cousin and I looked at him awhile, and my cousin said it was because he was black that he didn't want to give him the job.
Q. Then what happened?
A. The man said—he was sort of flustered—he brought out this paper and showed me. And on this paper it said: if a woman applied for the job it was filled.
Q. What if a man applied for the job?
A. He didn't say anything about a man.
Q. In other words, he showed you this paper?
A. Yes.
Q. And this letter was his instructions that if a female applied for a dishwashing job he was to say to the female that the job was filled. Is that correct?
A. He just showed us the paper. He didn't do too much talking.
Q. You read the paper?
A. Yes, I read the paper myself.
Q. And this is what is said?
A. Yes.
Q. Did your cousin, or did you, get the job?
A. No. Because he called downstairs and a man came up. This man was wearing a white coat and he said he had the job.
Q. This man, I presume, was black. Is that right?
A. Yes.
Q. Then, I presume you left. Is that correct?

A. That's right. I left and went home.
Q. What, if anything, did you do after that?
A. Well, I called a friend and I was telling him about it and the friend called—next day. And the man said the job was open. Now, I don't know whether it was the same man but he said the job was open.
Q. Who was it who called, male or female?
A. It was a man.
Q. In other words, when you were at the place of employment they brought up a man in a white jacket who said the job was filled. Then the next day—were you present when this male called for the dishwashing job and they said it was open? Were you present?
A. No.
Q. Well, how do you know about it?
A. He told me.
Q. That the job was open?
A. Yes.
Q. Did he make an attempt to get the job?
A. I don't know. I didn't ask any more about it.

Mr. Esper: That's all we have.

Mr. Volk: I would like to ask that the testimony of this lady in court be stricken. We don't follow the strict rules of evidence in this type of proceeding, but I would like to point out that if this were a case against the restaurant where she applied, then her testimony would be relevant. But we are here to determine whether The Pittsburgh Press violates the ordinance in the City of Pittsburgh. This lady has testified that she has applied for a job as a dishwasher, which she found readily in the

newspaper, classified under jobs — male interest. When she went there, apparently they were going to discriminate against her because she was a woman. Now, we agree that some employers discriminate against women. What that has to do with The Pittsburgh Press is beyond me. And I ask that her testimony be stricken as being totally irrelevant to these proceedings—even though she may have a legitimate grievance before this Commission for discriminatory practice. Unless she can prove that restaurant is located down here on the Boulevard of the Allies in the Press Building, her testimony is irrelevant to these proceedings. I don't even know why this lady was brought in here.

Mr. Esper: Well, in answer to Mr. Volk, I think this testimony is relevant. Mr. Seli did testify in answer to a question about whether The Pittsburgh Press, in doing what it is doing as far as want ads, aids the employer who wants to discriminate. And this is proper testimony in showing that the want ads, by using the male interest column, has definitely discriminated on the basis of sex.

Mr. Volk: It doesn't show definitely anything. She hasn't proved a darn thing here today. The whole thing is irrelevant and to the extent that it may not be irrelevant, it is purposeless.

The Chair: I have one question. The job was placed in the male preference column?

Witness: That's right.

The Chair: We will note your objection, but we will accept the testimony for the record.

Mr. Esper: That is all.

Mr. Volk: I have no questions.

(A five-minute recess was had)

The Chair: Will you please come to order?

Mr. Esper: If the Commission please, I would like to call Wilma Heide, please.

WILMA SCOTT HEIDE, witness for the complaint, and having been duly sworn, testified as follows:

DIRECT EXAMINATION OF WILMA SCOTT HEIDE

By Mr. Esper:

Mr. Volk: I would like to have a showing, I would like to request the Commission to ask for a showing, as to how Mrs. Heide's testimony is going to be proper rebuttal. I would like to point out that in our procedures we are now in a posture of rebutting evidence—that the complaint rebut the evidence presented by us. And Mrs. Heide, known to all of us as a member of the Pennsylvania Human Relations Commission, as an ex-officer, if not a current officer, or the National Organization for Women, present at these proceedings right from the beginning—I would like to know how Mrs. Heide is here to rebut our testimony. Because if she is here to make a speech, or if she is here to testify as a complainant, I object vigorously to the complainant patching up his case at the conclusion of the case of the—. We are not interested in hearing Mrs. Heide make a speech.

The Chair: I think before we could make any ruling, we have to hear the questions.

Mr. Volk: He could make an offer. I would like to hear him make an offer as to what Mrs. Heide is going to say.

Mr. Esper: Well, if the Commission, please, Mr. Seli made several assertions in his examination, indirect, on behalf of The Pittsburgh Press, one of which concerns what happened when the Pennsylvania Human Relations Commission, when they met informally I believe, and he testified that they sent out a press release. Well I think Mrs. Heide is competent to testify that this might not have been all that was done; that this is proper rebuttal in that particular aspect. Mr. Seli also talked about the convenience of readers of the classification of want ads. I think Mrs. Heide is competent to rebut that. I feel that as we go on with the questioning, anything that is offensive or not proper rebuttal, Mr. Volk would have an opportunity to object to.

The Chair: I think we should hear the questions.

Mr. Volk: I apologize in advance to the Commission for what is probably going to be a current of objections. I don't wish to appear to be a litigious and objectionable lawyer. On the other hand, I think we are going to be treated to a distressing mass of irrelevancy. And compounded with further speechmaking it is most distressing to me, so I plan to object whenever I feel that the testimony has gone on to pathways that I am quite sure are inappropriate.

The Chair: Well, that may be, but one should not prejudge the testimony which has not yet appeared. So let's have the testimony first.

Mr. Esper: May we proceed? What is your name?

A. My name is Wilma Scott Heide.
Q. And where do you live?'
A. I live at 152 White Oak Drive, New Kensington, Pennsylvania.
Q. And, were you subpoenaed to testify here?
A. Yes.
Q. By whom?
A. By the Pittsburgh Commission on Human Relation.
Q. And what is your profession?
A. I am an Associate Research Scientist at the American Institutes for Research in the behavioral sciences, in Pittsburgh.
Q. How long have you been there?
A. Over three years.
Q. Other than your profesional work as a behavioral scientist, what else qualifies you here today as an expert witness?
A. Among several citizen roles, I am a member of the Pennsylvania Human Relations Commission, which is the agency appointed by the governor of the State for enforcement of affirmative action to bring about results in the Commonwealth in relation to the civil rights laws.
Q. Were you present on December 9, 1969, when representatives of the newspapers of Pennsylvania and elsewhere met with representatives of the Pennsylvania Human Relations Commission?

A. Yes.

Q. And would you tell us about that, please?

A. Yes. Mr. Seli testified in an earlier hearing, when he was reminded by Commissioner Reizenstein about the Human Relations Act which applies to employers in Pennsylvania or outside of Pittsburgh —he testified that the Pennsylvania Human Relations Commission sent out only a press release relating to its policy about classified want ads. Mr. Seli was in error about that. I have here a copy of the notice that was sent to all classified ad managers of all Pennsylvania newspapers. This notice was sent, in addition to a press release, to all newspapers— a release that most newspapers, including The Pittsburgh Press, did not choose to print for the benefit of employers, employment agencies, labor unions, and the general public who use the want ads. The notice and the release stated that the Human Relations Commission considers the sex-segregated want ads in violation of the Pennsylvania law, and I am prepared to read that memorandum.

Q. Do you have a copy? Is this the exhibit?

A. I have a copy. I have, also, the signatures of those who attended the meeting, and the correspondence, in this regard, between the Pennsylvania Newspaper Publishers Association and the Pennsylvania Human Relations Commission.

Q. Well, if the Commission please, I would like to have it marked as an exhibit and offered as evidence. In addition to the press release, I think that Mrs. Heide testified that there was a notice that went out, and this is the notice that I want to —

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The Chair: And you want—

want to offer it, offer it as evidence, rather than to —

Mr. Volk: Well, I consider it irrelevant.

Mr. Esper: Then that has been offered into evidence. Do you think your active citizen roles in behalf of civil rights, Mrs. Heide, is compatible with your role as a member of the Pennsylvania Human Relations Commission?

I think my citizen roles are not only compatible, they are absolutely vital to any sensitive, knowledgebale or effective work on a commission. I think advocacy of all rights for all citizens needs to be a basic qualification to be even considered —

Mr. Volk: There's a speech. There's a speech.

The Chair: Your objection is overruled.

In your view, Mrs. Heide, do the Pittsburgh classified employment ads, with some jobs labelled "male interest" and others labelled "female interest" violate Ordinance 75, as amended by Ordinance 385?

Mr. Volk: Objection. Mrs. Heide is not on the Pittsburgh Human Relations Commission and her opinion is totally irrelevant.

Mr. Esper: She's an expert in this field.

Mr. Volk: Besides, she's already proved she's biased.

The Chair: I am sorry to say that this is not a very acceptable question. The objection is sustained, as to the violation of the Pittsburgh Ordinance.

Q. Mrs. Heide, the Pittsburgh Press, representative Robert Seli, stated that this segregation of ads by sex is done "for the convenience of readers." That is a quote, for the convenience of the reader. And that it is, in some other peoples experience, that men and women generally have different job preferences. In your view is this a bona fide occupational qualification —

Mr. Volk: Same objection .

Q. That should exempt the Pittsburgh Press from the provisions of this ordinance?

Mr. Volk: Same objection. I'd have to consider Mrs. Heide a protagonist of these particular sociological concepts of the National Organization for Women and not an impartial or judicial officer with any standing to give any legal opinions such as this. The legal opinions of this Commission are the ones we're worried about, not those of Mrs. Heide — we know what they are.

The Chair: Would you repeat the question?

Q. The Pittsburgh Press' representative, Mr. Seli, has stated that the segregation of ads by sex is done for the convenience of the readers, and that it is in other peoples experience that men and women generally have different job preferences. In your view, is this a bona fide occupational qualification that should exempt the Pittsburgh Press from the provisions of this ordinance?

The Chair: Let me make this clear. Even though Mrs. Heide were in law as a member of the bar, she could not give an answer as to the validity

of certain acts being exempt, prohibited, or permitted by our ordinance. What I suggest is that you rephrase your question.

Mr. Esper: Well, let me ask Mrs. Heide if in her view whether or not this is a bona fide occupational difference, without reference to exempting the Pittsburgh Press from the provisions of the ordinance. Do you think it is a bona fide qualification?

Mr. Volk: I'm going to object. The whole thing is totally —

The Chair: Would you repeat the question?

Mr. Esper: The segregation of ads by sex, as Mr. Seli stated, is for the convenience of the readers, if, as is some other peoples' experience, men and women generally have different job preferences. I was asking Mrs. Heide, whether or not in her opinion, that was a bona fide occupational difference with respect to sex.

The Chair: Are you going to object?

Mr. Volk: Yes. Mrs. Heide is the prosecutor, in effect, in this case. Mrs. Heide is, to all intents and purposes, the complainant. This is like asking the victim of a robbery, or an alleged robbery, whether the victim thought the robber was guilty of robbery. This is not a reasonable judicial proceeding. Let her testify to facts. I'm not interested in her legal conclusions, and I should certainly hope that the Commission isn't either.

The Chair: I will sustain the objection. I will ask the question myself. In your opinion, based on

your qualifications as a member of the State Human Relations Commission and your research experience, whether it is more convenient for the readers, or not, to have the ads separated by sex?

A. I think in the absence of any data or any study, other than that presented by the Dr. Bem, we don't really know what's more convenient. I would submit that many witnesses have been asked to testify to their view on this, and there has been no prior objection to their testifying, whether or not they are members of the Commission, or attorneys.

The Chair: I have another question: whether, in your view, it is more facile, easier or not — I just want your view not even a scientific viewpoint, just a view based on your experience and your educational background.

A. It is difficult to answer about convenience without knowing the context. If you want to say it is convenient for females to look only under these jobs listed for females, that's more convenient because it cuts down the number of jobs they must look at. But, if one is thinking of convenience in terms of having a service like the newspapers provide, listings of opportunities — all the opportunities that are available — then I would say that it is certainly not a convenience. It's a limitation. Does that answer your question?

The Chair: That answers my question. Proceed.

Q. Mrs. Heide, we were talking about the disclaimer — you are aware of the disclaimer that appears in the Pittsburgh Press want ad sections — notice to job seekers, etc., that they are doing this for

the convenience of the reader. Now, let me ask you, in your opinion, does this "notice to job seekers" represent compliance with the various State and —

Mr. Volk: Same objection. That's what we're here to determine.

Mr. Esper: Well, see —

Mr. Volk: That's the function of the Commission, not Mrs. Heide.

The Chair: What was the last part of your question?

Mr. Esper: I had asked her, in reference to this notice to job seekers, that we were talking about, whether in her view, that by placing this notice in the paper there is a compliance with the various City and State and National Civil Rights laws, pertaining to this subject.

The Chair: I will sustain the objection, and ask a question. Is it compliance with the Pennsylvania Human Relations Act, as interpreted by the Commission — as a Commissioner, do you know?

A. I do know. And it is not, as indicated in this memorandum, entered into the record.

Q. The answer is that it is not, is that right?

A. Yes.

Q. I have one last question of Mrs. Heide. Mr. Seli has testified that not many individuals have complained to the Press about the sex-segregated want ads. Is it possible that most people want it the way it is? I don't think there will be any objection to that. [laughter]

Mr. Volk: You're asking her for a possibility. It might be irrelevant, but it's not calling for a legal conclusion. I'm not going to object.

A. Many individuals have complained to the National Organization for Women and to me, individually, as a State Commissioner. Most people, including many psychologists who work and write as industrial psychologists, haven't thought about it, let alone challenged the status quo. And that, I think, is precisely the power of behavioral practics. Few people do challenge them. And this I could indicate from the literature, and I think we are aware of it. Furthermore, a reading of NOW's complaint shows, and a reading of the ordinance shows, that there is no necessity to, nor did it, indeed, state an instance of an individual person who was aggrieved. It is enough to be aggrieved, without going through the public hearing and sharing of one's troubles, including the revealing of very private information. Its precisely the system as part of a larger employment practice that disadvantages especially women, and men in other ways, and does perpetuate the sex role stereotyping.

Mr. Volk: Now she's giving a speech. This is not responsive to the question.

A. To answer the next part of the question. We don't know what way most people want it, unless we provide alternative ways. I think we do have some evidences from the evidence supplied by Dr. Sandra Bem this morning.

Mr. Esper: Your witness, Mr. Volk.

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CROSS EXAMINATION OF WILMA SCOTT HEIDE

By Mr. Volk:

Q. Mrs. Heide, what degrees do you hold?

A. I have a Bachelor of Arts, with a major in sociology and a minor in psychology. And a Master of Letters, with a major in psychology and a minor in industrial administration. I'm also a registered nurse and I have some work beyond that in a doctorate degree.

Q. You have put into evidence a memorandum by the Pennsylvania Human Relations Commission of which you are a member, to — allegedly, I believe, actually, — to classified ad managers of various Pennsylvania newspapers. Who wrote that? Who wrote the text of it?

A. The text was written by our Public Information Officer, under the direction of our Executive Director, and with the direction from the Commission based on their policy decisions.

Q. What worries me with reference to the memorandum, what worries me is that it's awfully similar to various wordings that I've heard you use. Did you write it? Did you have anything to do with its writing?

A. No, I did not write it.

Q. Did you edit it?

A. No, I did not.

Q. Did you write a draft of it?

A. No. I saw the copy of the memorandum after it went out, and after the newspaper publishers, in response to this, had called for a meeting with the Commission.

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Q. Mrs. Heide, when this memorandum was issued, you said there were several signatures on the original memorandum?

A. No. I did not say that. I said that there were signatures of those present at the December 9th, 1969, meeting.

Q. You mean the meeting at which I and Mr. Seli and Mr. Albright —

A. That's right. That's right.

Q. Well, who approved the memorandum?

A. The Executive Director, in consultation with the Chairman of the Commission, Mr. Max Rosenn.

Q. Was a vote of the Commission taken, whether or not this was the official position of the Commission?

A. The vote of the Commission was taken prior to the issuance of the memorandum. The memorandum was an implementation of the policy decision.

Q. Let's talk about the policy decision. At what kind of a meeting was the policy decision made?

A. At a regular meeting of the Pennsylvania Human Relations Commission. We meet monthly.

Q. What meeting was that, can you remember?

A. Well it was probably — it might have been late in November.

Q. Were you present?

A. Yes, I was present.

Q. How many other members of the Commission were present?

A. I couldn't tell you without going back to the record.

Q. Was there a majority of the members?

A. There must be a majority in order for us to have a quorum to conduct business.

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Q. Were hearings held? Were the newspapers given an opportunity to present their side, to present briefs and legal argument?

A. No.

Q. This decision was made in closed-door session?

A. How do you mean, when you say "closed door"?

Q. No public hearings were held.

A. That's right.

Q. The newspapers were not given an opportunity to even express objections. Is that correct? — prior to the issuance of this memorandum.

A. That's right.

Q. Was this memorandum published in any official state document, any official state compliation of regulations, or administrative rules?

A. I think you would have to check the public documents.

Q. But not to your knowledge?

A. Not to my knowledge. Yes.

Q. What positions, if any, do you hold at the present time with the National Organization for Women?

A. I am a member of the National Board of Directors, and I have been asked to be Pennsylvania Convenor.

Q. What does that mean?

A. I think it would be best described as an organizing role.

Q. Do you not believe that this puts you in conflict with the judicial role that should be assumed by a person sitting on a quasi-judicial body such as the Pennsylvania Human Relations Commission?

A. No, I do not. I think that the civil rights law and ordinances of our land advocate civil rights for all

our citizens. That is precisely what the NAACP advocates, what NOW advocates, what numerous civil rights organizations advocate; so I think it is not incompatible.

Q. You think that sitting on a commission as a radical activist for an extremist organization [laughter] does not constitute bias?

The Chair: Excuse me. I would like to have extraneous radical statements stricken from the record.

Mr. Volk: Well I think it was accurate.

The Chair: That may be, but I think it is inappropriate.

Mr. Volk: Well, it is significant.

The Chair: If you can tone it down, yes.

Mr. Volk: It is very difficult to tone it down. Those are correct words. Let me strike the whole question; I know what the answer's going to be anyway. However, I want the record to reflect our continuing objection to Mrs. Heide as testifying as an officer of a State agency, when she is the major officer in an organization which advocates an exposition vis a vis a certain segment of the civil rights law.

The Chair: The record will so reflect.

Mr. Volk: I have nothing further.

Mr. Esper: Well, I would just like to state, Mr. Chairman, that throughout these proceedings Mr. Volk had alluded to the extremism, etcetera, of this

organization. I think this organization is in pursuit of a lawful justice and, call it by whatever name you will, I think it is a tool of progress. I think it is more in conformance with establishing equality of the sexes, as we have equality of the races. And so forth.

Mr. Volk: They have the perfect right to pursue this end. An organization, to my knoweldge, has an absolute legal right to exist and pursue the ends it seeks. But when they put one of their activist members, one of their leaders, on a quasi-judicial body such as the Pennsylvania Human Relations Commission, this is improper. However, this is not a matter for this Commission.

The Chair: No, but it's a matter for discussion.

Mr. Volk: But I object to it only as to the credibility and authenticity and the impartiality of the testimony of the witness as an officer of the Pennsylvania Human Relations Commission.

Mr. Esper: Well, I am sure the Commission does consider each witness in their capacity as witnesses. I think its not lost on the Commission; I think they do consider that. And whatever Mr. Volk is saying, I think it is obvious to the Commission they will consider it.

Mr. Volk: No further comment required.

The Chair: The only comment I would make is that we will consider every text of the record, including counsel's comments, that appointment to the State Commission is made by the Governor, and that the City Commission has no control over the

Governnor of the Commonwealth. So, whether it is a proper appointment or not I would refer to counsel to complain to the Governor.

Mr. Volk: We only bring it up, sir, as pointed out in evaluation of the testimony of the witness as an official of that body.

The Chair: All right. Thank you very much.

Mr. Esper: Thank you. If the Commission please, this concludes the complainant's rebuttal in the case and the only thing that remains to do is to summarize. And I would like to have Mr. Valadez — if this is the proper time — to summarize in closure what has transpired. With the right of other counsel having the same equal opportunity.

(A recess of ten minutes was then had)

The Chair: I would like to ask the amicus curiae whether he would like to make his comments before the both sides make their closing arguments, or after.

Mr. Albright: Mr. Chairman, I think the amicus American Newspaper Publishers Association, with the Commission's permission, would like to make their's after.

The Chair: Would you please make your summary, Mr. Valadez.

Mr. Valadez: Our complaint charges the respondent with violation of Section 8(J) of the Pittsburgh Human Relations Ordinance.

It is our opinion that the testimony given at this hearing abundantly supports our complaint in

that the respondent — the newspaper with the highest circulation in the area and carrying substantially all of the classified employment advertisements in the area — has arbitrarily constructed a rigid set of sex-segregated classifications for their employment advertising, thus affording those employers wishing to discriminate a vehicle by which they may do so, and forcing those wishing to comply with the law to either express a sex preference or suffer additional expense by advertising under more than one classification. This practice continues even though, as the testimony indicates, this Commission has made clear to respondents that the Pittsburgh Ordinance (covering Pittsburgh employers) prohibits sex discrimination in this manner, and the Pennsylvania Human Relations Commission has likewise informed respondent that State laws similarly ban sex discrimination in this manner.

A portion of the Declaration of Policy of the Pittsburgh Ordinance is to the effect that the policy of the City of Pittsburgh is to exercise its powers to assure the right and opportunity of all persons to participate in the . . . economic life of the City . . . and prohibits discrimination because of sex in employment. The passage of this Ordinance recognizes a fundamental axiom of an industrial society —that an individual to be integrated into the political and social community must first be integrated into the economic community. Today, economic citizenship is the passport to political and social citizenship and this the Ordinance, at least in theory, recognizes.

The right to equality of opportunity in employment is basic to our society. It should require no argument to show that the right to work for a living in the common occupations of the community is of the very essence of personal freedom and opportunity. In sum, we view rights to equal employment opportunities as preferred rights, on the same scale as freedom of speech.

The first and most desirable objective of our complaint is to cause the respondent to be persuaded that they have a responsibility to employment agencies and employers to bring about compliance with the Ordinance. Law and order, if you wish. We believe that our presence here—in this controversy or confrontation — is occasioned because the respondent resents government intrusion into what it has always considered an area of private decision making.

Let us dwell for a moment on the Ordinance. The Ordinance reflects, beneath its surface, a social revolution whose objest is to refashion American institutions so that both personal freedom and institutional freedom can exist. The Commission shoud recognize that we have moved from a mercantile society based upon real property and contract to an industrial society based upon intangible property and status. For the vase majority of citizens, the most valuable property is not their automobile or their home, but their job, their profession, their rights, and the right to use their labor and skill has become their most valuable property right. If personal freedom is to be maintained within our society, the legal process must provide

the same safeguards to the new property of right to use their labor and skill, as it afforded the old property.

It is our contention that the equal employment opportunity will be protected and advanced if the Commission adopts a view regarding discrimination as a public wrong and not a private wrong. For sex discrimination, like racial discrimination, is by definition a class discrimination. If it exists, it applies throughout the class. And although the actual effects of a discriminatory policy may vary on various members throughout the class, the existence of a discriminatory policy threatens the entire class. The criterion should not be the actual impact of discrimination upon the complainant, but the potential impact of the discrimination. If the Commission will view the acts of discrimination by respondent as a prima facie wrong, the Commission will be protecting the economic rights of women by compelling the respondents to come forward — if they can — with higher social reasons to justify their discrimination. The chief function of a free society is that of enhancing personal freedom and human dignity. The Ordinance should be interpreted as imposing institutional checks upon organized centers of power, on behalf of the unorganized individual. The theme should be institutional responsibility, not institutional immunity.

We ask that the complaint be allowed and an appropriate order issued.

The Chair: Mr. Volk.

Mr. Volk: We think that the Commission has before it a serious and complicated problem. This isn't as easy as many of the other questions that might come before such a Commission is concerned.

This — you — are one of the first agencies in the United States, properly constituted before a full hearing with rights of all people to be heard—no backroom sessions—but a full hearing held publicly, to have this question put before it. You are, willing or not sir — and lady — sirs and lady — leaders, forerunners in this field of law. What you do here in Pittsburgh, although it affects only our city, is going to be viewed nationwide; it is going to be quoted by other cities and by other agencies in other states as well as Pennsylvania. You can easily, very easily, follow the closed door hearing ruling of the Pennsylvania commission, or you can follow the three-to-two, third change of mind, by the Equal Employment Opportunity Commission in issuing a guideline saying that such advertising is violative of the National Civil Rights Act, or, you can take an independent course and you can decide the question without regard to particularly questionable rulings in deciding a Pittsburgh problem based on the evidence here today. And that, I am quite sure, is what a commission of this caliber will do. I have great faith in the Pittsburgh commission, as opposed to some others I can think of.

We must regard that sex was added to this law and added to all of these laws as an essential afterthought. We all know the ridiculous and questionable way that sex got added to the Federal Civil Rights Act, added by southern Congressmen in an

effort to defeat the whole law. We wound up with a word in there that has never been adequately discussed judicially, never been subjected to give and take of politics in Congress, and sex was just added at the end of a string of other terms in the law—race, religion, national origin and sex.

But, there are differences between the sexes that do not exist between the races, between nationalities, between ethnic groups; there are differences, despite the testimony of the complainant tending to minimize these differences. Ladies and gentlemen, we have eyes, we can see these differnces, we know that they exist, and no evidence has been introduced to show that they don't. We all know what we see with our eyes, that men and women are much different in regard to employment than are whites and negroes, whites and blacks, christians and jews, mexican americans and american indians; there are differences that apply to men and women that aren't there when we come to these other categories and nobody has shown that they aren't there.

We feel that the biggest trap that this Commission could fall into is equating sex as just one other discriminatory medium. This will be, this will set up a legal chamber of horrors that will haunt us all for years to come and we are already beginning to establish legal precedents that will apply when age cases come up. And there are differences between age, old people and younger people, vis a vis jobs. Would it be improper in St. Petersburg, Florida, to put a want ad in the paper for senior citizens, a category senior citizens interests, where you have

a retirement community, and you want to advertise light jobs that senior citizens can actually do? No, it wouldn't be. Because there are adequate differences in a community like that. There are enough old people in the community to appeal to; and it would be perfectly proper to set up a classification in your want-ads "jobs—senior citizens", and this is what we say is the case between men and women. There is a significant body of job interests that the press has a right to cater to it.

The want-ads themselves are on their face nondiscriminatory. They don't say "male only", they say "male interest". There is a disclaimer box on every page. If, along with playing with dolls, and counselling, and all the other things that Dr. Bem testified to that influence children in pursuing male roles versus female roles, if, in addition to all of these, want-ads help, this isn't illegal anymore than wrapping your child in a blue blanket versus a pink blanket is illegal. It's not illegal; its part of our cultural pattern, to which both psychologists testified.

Let me point out to you some of the places where sex is a difference, where race is not. I want to point out to you over and over again the difference between the racial questions and the sex question. Let's consider restrooms. I think that every black man in America is well aware of the indignity and stigma that is attached to the colored and white restrooms, in the South during the Jim Crow days, and I think even today in a lot of places; and yet we have male and female restrooms. Why is one heinous and improper and one not? Simply because

there is a difference between men and women that doesn't apply to the races. Men and women are modest about going to the bathroom with each other. They do it in the United Nations, they do it in Japan, they do it in France. They use common restrooms; but in our cultural they don't. And I don't think this Commission is about to sit here and tell Kaufmann's department store that it has to have one restroom for men and women. And yet you will certainly tell Kaufmann's department store they can't hang a sign "colored only" over a restroom. That is a legitimate difference between the sexes, that has to be judicially taken into consideration by this and other bodies interpreting a law that was badly written to begin with, by merely adding sex in with all of the other criteria.

Another one is women's stores—stores that cater to women—sell only women's clothes. Is this to be ruled out as illegal, as sexual discrimination? If I put up a store and said "whites only", you're darn right it would be illegal. But if I put up a store for women's clothes or men's clothes, is that illegal?

What about women's hotels? Right down the street here the Salvation Army maintains the Evangelarian residence, a hotel, in fact a rooming facility, for working girls. Not working people—working girls, who want to live there. Are we now to tell the Salvation Army they have to put men in there? Or can they maintain a proper facility for girls. This is the type of questioning you are leading into. This is the type of question you're going to have to answer. And we ask you to consider all of these problems now, when you've got this one before you.

It's so easy for you to simply follow the E.E.O.C. and say they did it, we can do it. That's easy. Perhaps it may be what the Board in its best judgment will do. But I'd like to point out to you the dangers of this, the future questions that are coming up, and that somewhere along the line you're going to have to draw the distinction between sex and race. Its an imperfect analogy, it is a wrong analogy, it is bad. And if you don't draw it here, you're going to have to draw it on the restroom question, if in fact it ever does.

Rooming houses. Boarding houses. A house for girls only. A lady called Mrs. Murphy kind of thing in the Oakland area who has twelve rooms to rent and wants to rent them only to college girls. Are you going to tell her she can't do that? Maybe you are, I don't know. But this is the type of thing you certainly wouldn't tell her she could rent them only to white kids, or permit her to have only Jewish kids. But I think you will say she can have girls only if she wants to, or only boys.

There are differences between the sexes. And I ask you, is using your common sense, and listening to the testimony to reflect that the differences do indeed manifest themselves in job preferences. And that by screening the ads, as we have done, in very close cooperation with Mr. Washington and his Commission, and eliminating discriminatory wording from the ads, the ads can be placed in groupings according to what the employers, the employees and the newspapers feel to be the general pattern of interest. We ask that you not hold this practice to be improper. This is a serious question of far reaching national consequences.

Now you will notice that I have addressed myself only to the substantive issues. I have not backed up on any of the technical defects of this complaint, or this proceeding, and I certainly do not wish to bore you with all that again. We will argue it in our briefs. I am sure that NOW or somebody will, regardless of which way this thing rules, these technical questions may come before a court but, despite whatever technical questions the American Newspaper Publishers Association will raise, what they're asking for here is wrong. They are asking you to extend the law beyond its bounds for an improper purpose and we ask, humbly ask, respectfully ask you don't do it.

Mr. Albright: Mr. Chairman, my name is Ralph Albright. One counsel for the American Newspaper Publishers Association. I don't know if you've had an opportunity to sift through the briefs, but I want to tell you that the ANPA is a New York membership corporation, which consists of members totalling over one thousand daily newspapers across this nation. And in that representative capacity I think it's obvious that we do have an interest in the outcome of this proceeding.

As a preface to my remarks let me point out the ANPA's position on two points. And that is, under no circumstances does an advertiser, by placing an advertisement under a male or a female column heading, violate either the Pittsburgh Ordinance, the Pennsylvania Statute or the Civil Rights Act of 1964. It is only when an advertiser discriminates in hiring is a violation committed. A preference is indicated only by the refusal to hire based

on either race or sex, where sex is not a bona fide occpational qualification. Moreover, these headings, as was pointed out, are separated for reader convenience. We're not discriminating for the Press or the newspapers in general. I'm not discriminating against men and women when they separate these headings. This recognition, as Mr. Volk pointed out, that readers prefer it this way. They recognize the obvious fact which was testified to here that there are some jobs that are primarily of interest to one sex or the other. Because they are primarily of interest to one sex or the other, however, does not mean that a woman interested in a "job-male interest" position cannot go and apply there. When she goes and applies there, and is refused arbitrarily that job, that's when an unlawful employment practice occurs, not by the placing of a non-discriminatory advertisement under a column labelled male or labelled female.

It's also the position — this is the second point I want to make — of the American Newspaper Publishers Association that under no circumstances can this Commission nor any other commission nor federal agency tell the newspapers that they can't have separate male and female headings. And that's basically obvious, because there are exemptions from these acts. In the case of the Pittsburgh Ordinance there's an exemption for domestics, there's an exemption for employers with less than five employees, the act only applies to employers within the City limits of Pittsburgh, not to those outside the city limits or outside the state. Those employers outside the state, even though they have more than

five employees, may freely place an advertisement under a male or female column heading even if sex is not a bona fide occupational qualification. An employer with less than five employees can place an advertisement under a sex column heading even if there is no bona fide occupational qualification for sex. That position I want to make very clear on behalf of our client.

Another point that I would like to introduce is to attempt to persuade you, as I think Mr. Volk effectively did, that the racial analogy is inapplicable to these proceedings. It's inapplicable for one fundamental reason and that is it's already been decided. The Congress of the United States has already decided, the Pennsylvania Legislature has already decided, the City Council has already decided, discrimination may be perpetuated against women if sex is a bona fide occupational qualification — so says the legislative bodies. But, discrimination on the basis of race may not be perpetrated because under no circumstances according to the legislatures is race a bona fide occupational qualification. In short, there is no reason for recognizing whatever differences there may be phychologically between the races. The legislature has decided to ignore the psychological validity, if you will, of that point. They will not recognize a difference between the races. But they will between the sexes, otherwise why would they put in exceptions, bona fide occupational qualifications? A bona fide occupational qualification must exist otherwise they wouldn't have used that term.

Now, let me comment on, if I may, what I con-

sider to be some fairly egregious errors on the part of Mrs. Koontz — you remember she was the lady from the United States Department of Labor. Mrs. Koontz said that the guidelines of the Equal Employment Opportunity Commission were binding on the newspapers. The newspapers have to follow them. I think we also pointed out to this Commission that this organization is involved in litigation in the federal courts right now on this point, that is the statutory position of the Equal Employment Opportunity Commission promulgated guidelines. In connection with an initial decision on that very point the United States District Court in the District of Columbia said that these guidelines of the E.E.O.C. are binding on no one. Absolutely no one. They have no force and effect of law. I would like, with your permission, Mr. Chairman, for the record to reflect that I have a certified copy of the honorable Howard F. Corcoran's decision in this case which I would like to be added to the record. If counsel wants to examine it, here is the certification.

Mrs. Koontz, Mr. Chairman, also said that the guideline itself applies to newspapers. I'd like to introduce a copy of the Federal Register in which this guideline appeared — an official document of the Federal Government, in which agency promulgations appear — dated February 4, 1969, with the guideline, and nowhere within the body of that guideline is there any reference to newspapers. In fact, newspapers, the Equal Employment Opportunities Commission has admitted, are not covered by the Civil Rights Act of 1964. In addition to the

Commission saying that, in addition to Judge Corcoran saying that in his decision, the Congress of the United States also said that, in so far as the applicability of the Civil Rights Act to newspapers. In its report, reporting out the Civil Rights Act bill, out of the House of Representatives, the Congress said the prohibition of this section, that is, the section prohibiting unlawful indications of preference in advertisement do not require newspapers and other publications to exercise any control, or supervision over, or to do any screening of the advertisements and notices of the publisher. The Pittsburgh Press does screen. It screens the body of individual advertisements for any indication on the basis of sex. But they don't have to. Not under the National law, I submit not under the State law, nor under this Ordinance — and as a matter of fact to require them to do so, we would submit, would be a violation of the Constitutional guarantees against due process and also a violation of the First Amendment. That's what's lying behind Congress's decision not to require newspapers to screen — that's what's lying behind the State Legislature's decision to exempt newspapers from liability for false ads — the idea that it would be an onus, a ridiculous, unreasonable burden to place on newspapers to require them to determine whether an ad is false, whether an ad is discriminatory, whether an advertiser is covered by the Act, whether in fact a bona fide occupational qualification exists or doesn't exist, assuming the advertisers know.

I submit, Mr. Chairman, that this Commission, the Equal Employment Opportunity Commission, and, in fact, the Courts have been unable to define

what a bona fide occupational qualification is. It has to exist, notwithstanding Dr. Bem's protestations to the contrary otherwise there would be no need for the Congress, the City Council or the Pennsylvania Legislature to mention it as an exception. It exists. What is it? I submit that this Commission has difficulty in defining it, and if this Commission has difficulty in defining it, how can you expect the classified advertising manager of the Pittsburgh Press to make a determination whether the ad or whether the employer has a B.F.O.Q. for the position advertised. That's one effect which you will require him to do if you attach any liability whatsoever for his publication of an advertisement.

Let's look at our initial objections to the complaint, Mr. Chairman. You recall, in the beginning, we objected to the complaint because it was vague. As an indication of that vagueness try an answer this question. What does NOW want? What is the complainant looking for? I don't know. Do they want the Press to completely eliminate the sex indications in column headings? I don't think they do because at least the attorney making the argument for the Women's Equity Action League indicated that its not their position that separate classifications are a violation, per se. Because they recognize these exemptions. They recognize that employers not covered by the Act can place an ad under male and female. They recognize that an employer who has a position to which a B.F.O.Q. is attached can place it under male and female. What do they want? Do they want you to issue an order telling the Pittsburgh Press not to accept ads from employers covered, where the ad is advertising a

position to which no B.F.O.Q. attaches? I don't think they want that either. Because how possibly could the Pittsburgh Press make that determination. There are no guidelines as to what a B.F.O.Q. is, or if there are they are extremely vague and you can't expect, I believe, in all reasonableness, to require a layman, a classified advertising manager, or more particularly, his staff to make those legal determinations. I don't know what NOW wants. It's not stated in the complaint. They don't seek any relief. I think perhaps nothing so formal — to teach people, to tell people that women are discriminated against. Maybe that's true. Probably is true in a lot of situations. But the Pittsburgh Press is not discriminating against anyone. If there is any discrimination from which they want relief, let them bring in the employer who fails to hire on the basis of sex, arbitrarily. There's no reason the Pittsburgh Press should be involved in this.

Technical arguments we have a lot of. I think it's obvious that the complainant, assuming the complainant is NOW, never stated a complaint, never presented any testimony at all as to an advertiser covered by the Act placing an ad under male or female and showing that they, that is an individual, who was discriminated against in so far as being refused to be hired. None whatsoever. I think that in and of itself renders this whole proceeding fatally defective. In so far as the fatally defective nature of the proceeding, I guess you could look at it from the standpoint of this being a Legislative hearing. You're not considering legislation, Mr. Chairman and members. You're consider-

ing issuing orders, sitting in a quasi-judicial capacity, and in that capactiy you are limited by the strictures of your enabling ordinance. That enabling ordinance says that there have to be facts, there has to be an aggrieved party, there has to be some showing of some advertiser who is covered by the act and placed an ad. Most fundamental, there has to be showing that if the Pittsburgh Press aided and abetted that they had knowledge that the advertiser was covered, that they had knowledge that there was no bona fide occupational qualification. Absolutely not one syllable of evidence in that regard. Not one item.

I have no further words.

The Chair: Thank you. The hearing is now closed. The parties, represented by counsel, will submit briefs.

Mr. Volk: Yes sir, I think with the complexity of the testimony in the hearing we will have to do that. I think we should do that.

The Chair: I would hope that consel for both sides would submit briefs.

Mr. Volk: One stricture on that. I think we would like to have the transcript first. This may not be possible, but if possible I would certainly like to have the advantage of a transcript.

The Chair: Our complainant will probably make arrangements.

Mr. Volk: Perhaps we could negotiate with Mr. Washington as to —

The Chair: I think that would probably be the best way as to the proceeding from here on. Stand adjourned. That is all.

Complaint's Exhibit No. 1.

EXHIBITS TO TESTIMONY OF HEARINGS BEFORE THE PITTSBURGH COMMISSION ON HUMAN RELATIONS

COMPLAINANT'S EXHIBIT NO. 1.

HOW EMPLOYMENT AGENCIES DIVIDED THEIR HELP-WANTED ADVERTISING BETWEEN THE MALE, MALE OR FEMALE, AND FEMALE SECTIONS IN THE SUNDAY PITTSBURGH PRESS ON JANUARY 4th, 1970

Complaint's Exhibit No. 1.

EXHIBITS TO TESTIMONY OF HEARINGS BEFORE THE PITTSBURGH COMMISSION ON HUMAN RELATIONS

COMPLAINANT'S EXHIBIT NO. 1.

Complainant's Exhibit No. 1.

Summary

Median Salaries of Jobs as Advertised by Employment Agencies
(rounded to nearest thousand)

AGENCY	MALE	MALE OR FEMALE	FEMALE
Amer. Business Center	10,000		6,000
Bosch	11,000		5,000
Consultant Service	14,000		5,000
Bushee	14,000		no salary
Business Men's Clearing House	9,000		6,000
Career	12,000		10,000
Computer Search	9,000		6,000
Cosmopolitan	12,000		6,000
Don, Lee and Sheridan	17,000		no salary
Dunhill	10,000		5,000
Electronic Systems	13,000		5,000
Employment Specialists	11,000		5,000
East End	6,000		4,000
EMR	14,000		5,000
Hughes	9,000		no salary
Int'l Business	9,000		5,000
Kearney-McDonough	8,000		4,000
Liken	14,000		4,000
McPherson	7,000		4,000
Montgomery	10,000		5,000
National Personnel	9,000		5,000
Pencoast	10,000		4,000
Pongras	7,000		5,000
Pyramid	14,000		5,000
Rittenhouse	11,000		5,000
Sanford Rose	no salary		no salary
S-B-S	7,000		5,000
Snelling and Snelling	7,000		5,000
Strauss	12,000		5,000
United Consultants	9,000		

API	11,000
Anderson	13,000
Computer Career	20,000
Cunningham	9,000
Fisher	?
Fortune	12,000
Gleason	14,000
Half	28,000
James	11,000

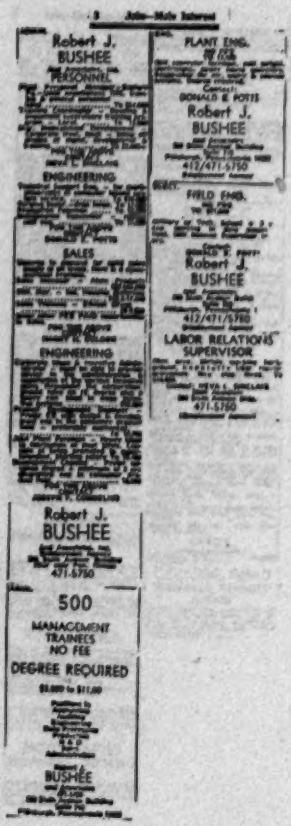
Complainant's Exhibit No. 1. 303a

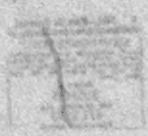
AGENCY	MALE	MALE OR FEMALE	FEMALE
Malley	18,000		
Lane	13,000		
Management Search	18,000		
McGregor	6,000		
Placement Specialists	15,000		
Romac	21,000		
Sales Consultants	19,000		
Technical Search	14,000		
Tansett	16,000		
Esquire			5,000
Exclusively Girls			5,000
Leonard			5,000
Sherman			4,000
Staff Builders			no salary
Task Force			no salary
Towne			no salary
Triangle			5,000
Cole		no salary	
Gray		no salary	
Pyh. Teachers		no salary	
Medical Hospital Placement	16,000	12,000	9,000

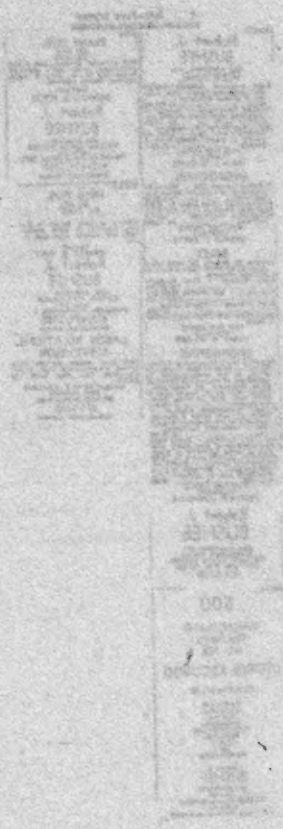
Complainant's Exhibit No. 1.

ROBERT J BUSHEE 500 Chg. Vol.

Pittsburgh Press, Sunday, Jan. 4, 1970

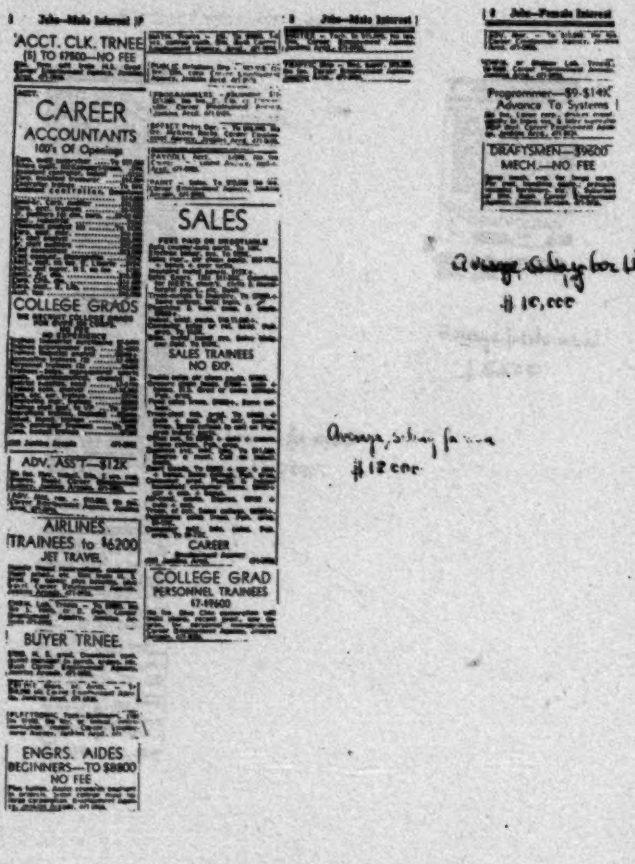






CAREER Jenkins Arcade

Pittsburgh Press, Sunday, Jan. 4, 1970—



ACCT. CLK. TRNEE
[$] TO $7800—NO FEE

CAREER
ACCOUNTANTS
100's Of Openings

COLLEGE GRADS

ADV. ASS'T—$12K

AIRLINES
TRAINEES to $6200
JET TRAVEL

BUYER TRNEE.

ENGRS. AIDES
BEGINNERS—TO $8800
NO FEE

SALES

SALES TRAINEES
NO EXP.

CAREER

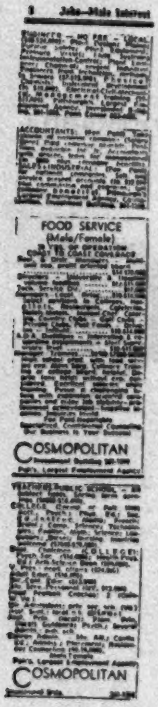
COLLEGE GRAD
PERSONNEL TRAINEES
$7-$9600

Programmer—$9-$14K
Advance To Systems

DRAFTSMEN—$9200
MECH.—NO FEE

Average Salary for Women
$10,000

Average Salary for men
$12,000



Average for men
$12,000

Average for women
$5,500

EMPLOYMENT SPECIALISTS

Pittsburgh Press, Sunday, Jan. 6, 1974

Average
$11,000

Average
$5000

HUGHES
PERSONNEL

HUGHES Pittsburgh Press, Sunday, Jan. 4, 1970—

8 Jobs—Male Interest

STAFF MANAGEMENT TRAINEE TO $12,000

BUSINESS CONSULTANT LOCAL TO $10,000

CLAIMS ADJUSTER TRAINEES $7200 + CAR

NO COLLEGE! YOU STILL QUALIFY FOR MANAGEMENT TRAINING $650-$750

STOCK BROKER TRAINEE TO $9000 + BONUS

MARKETING TRAINEE $650 MO. SALARY

PUBLIC RELATIONS TRAINEE $625 MONTH

HOTEL MANAGEMENT TRAINEES TO $9000

GENERAL OFFICE CLERK $6000

INVESTIGATOR TRAINEE $550 PLUS BONUS

PERSONNEL TRAINEE $700-$800 I-A is OK

OFFICE BEGINNER $125 WEEK

8 Jobs—Female Interest

Admin.

TRAINEE TO BE PRIVATE SECRETARY TO V.P.

A Pittsburgh entertainment oriented firm needs a girl who isn't afraid to do many different things. You will do like typing, handle contracts, schedule conferences etc. If you want a fast moving, exciting job, call now, 261-1055, HUGHES PERSONNEL, 601 Grant St., 4th Floor, Porter Bldg., Employment Agency.

FRONT DESK RECEPTION NO EXPERIENCE NEEDED

Young, but highly successful firm needs a bright young girl to train as their office receptionist. You'll greet clients, answer phone and set appointments. Very exciting salary. Call 261-1055, HUGHES PERSONNEL, 601 Grant St., 4th Floor, Porter Bldg., Employment Agency.

HUGHES PERSONNEL

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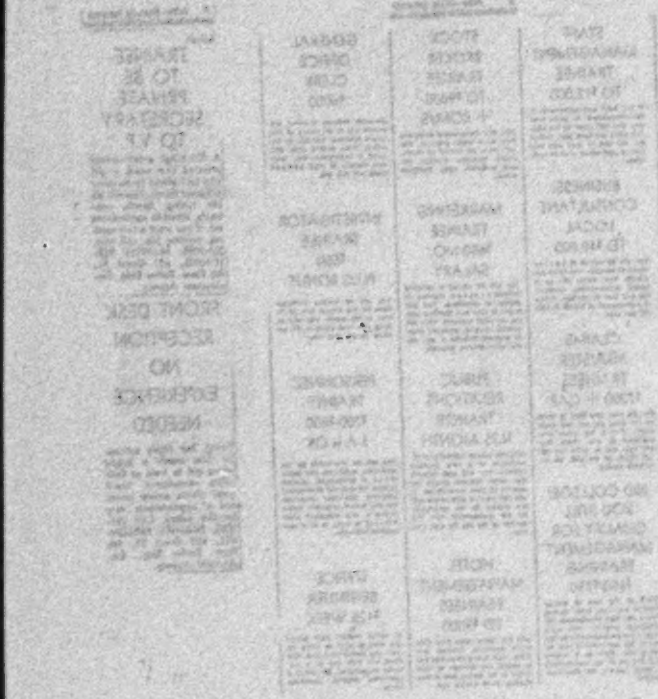
Complainant's Exhibit No. 1.



Complainant's Exhibit No. 1. 315a

PANCOAST

The Pittsburgh Press, Sunday, January 4, 1970

$ Jobs—Male Interest

DEPARTMENT MGR. TRAINEE FEE PAID
PANCOAST

STAFF ACCT. $10,000 UP FEE NEGOTIABLE
PANCOAST

SALES MANAGER $16,000 FEE NEGOTIABLE
PANCOAST

Average for men $10,000

CHIEF ENGINEER TO $15,000 YEARLY
PANCOAST

RETAIL MANAGER TRAINEE $175 WEEK HALF FEE PAID
PANCOAST

Average for women $4,000

W Jobs—Female Interest

Complainant's Exhibit No. 1.

UNITED CONSULTANTS (continued)

HOTEL DIRECTOR TRAINEE
$775

IE TRAINEE
$750
No Degree

Average income
$7000

007 TRAINEE
$6,600 + Bonus

PERSONNEL TRAINEE
$8,300

Jobs—Female Interest

BOOKKEEPER TRAINEE
$390

PERSONNEL PROMOTION BEGINNER
$500 + Car + Expenses

Average income
$7,800

SECRETARY
$725
Assist The President

SECRETARY TRAINEE
$400
Fee Paid

Mc GREGOR Clerk Cdg.

Pittsburgh Press, Sunday, Jan. 4, 1970

18 Jobs—Male Interest

ACCOUNTING

Jr. Accountant Trainee

$550/MO.

FEE PAID

Local Fish Corp. will train you at their expense to all areas of duty. You will work directly for the Controller for the first 12 months. Benefits for this outstanding opportunity are a 40 hour week—Mon. thru Fri., 8:30 A.M. to 5 P.M., paid holidays, vacation, Life & Hospitalization insurance, Company Co. paid benefit package & 100% tuition. For more information and a confidential interview, call McGregor Personnel, Employment Agency, 1201 Clark Bldg.

391-2840

ACCOUNTANT, JUNIOR

$525 - $550

FEE PAID

Local Major Firm needs young man with good math aptitude & some experience in General Accounting to handle responsibilities in newly created position within cost dept. Work under direct supervision of department head while learning company's cost methods. Complete benefit package + 100% tuition. For more information call, McGregor Personnel, Employment Agency, 1201 Clark Bldg.

391-2840

ACCOUNTING CLERK

Life being one hours away. Immediate openings in Greensburg branch of national company. Salary $70 to $80. To start. Call McGregor Personnel, Employment Agency, 1201 Clark Bldg.

391-2840

ACCOUNTING MANAGER

$12,000/START

NO DEGREE

Local subsidiary of Nationally known Corp. needs a man to supervise small accounting department. Similar position plus supervisory experience necessary also knowledge of Systems/methods. Company offers outstanding benefit package including, B/C-B/S, M.M., Life, Paid vacations, 10 Holidays, free parking, 100% Tuition and Pension Plan. For more information call, McGregor Personnel, Employment Agency, 1201 Clark Bldg.

391-2840

Adm.

PURCHASING TRAINEE

$8400-$9600

ANY COLLEGE DEGREE

LOCAL FEE PAID

Local Major Manufacturing Company with many expansions in its future has openings for 2 graduates to train for positions as Purchasing Agents. Company is one of the largest manufacturers of wood products in the area. Call McGregor Personnel, Employment Agency, 1201 Clark Bldg.

391-2840

CREDIT INTERVIEWER

You will enjoy a variety of public contact responsibilities in this challenging position including interviewing applicants, checking credit, and approving loans. $735 to start. Call McGregor Personnel, Employment Agency, 1201 Clark Bldg.

Electronic COMPUTER TECHNICIAN 4

Tech school or military electronics, with knowledge of solid state qualifies you for outstanding position with this Major firm. You will be installing & maintaining 3rd generation computers at customer locations. Pgh. area.

$115 TO $130/wk. TO START

+

3-6 mo. Co. paid school WHILE YOU EARN FULL SALARY

+

100% TUITION

+

STOCK OPTION

Call McGregor Personnel, Employment Agency, 1201 Clark Bldg.

Electronics Tech 5

Tech School or Military Electronics qualifies you for a field service position with a National Electronics Corp.

SALARY $470 TO $590/mo. START

NO FEE

FULL SALARY WHILE IN CO. PAID SCHOOL

+

NEW CO. CAR

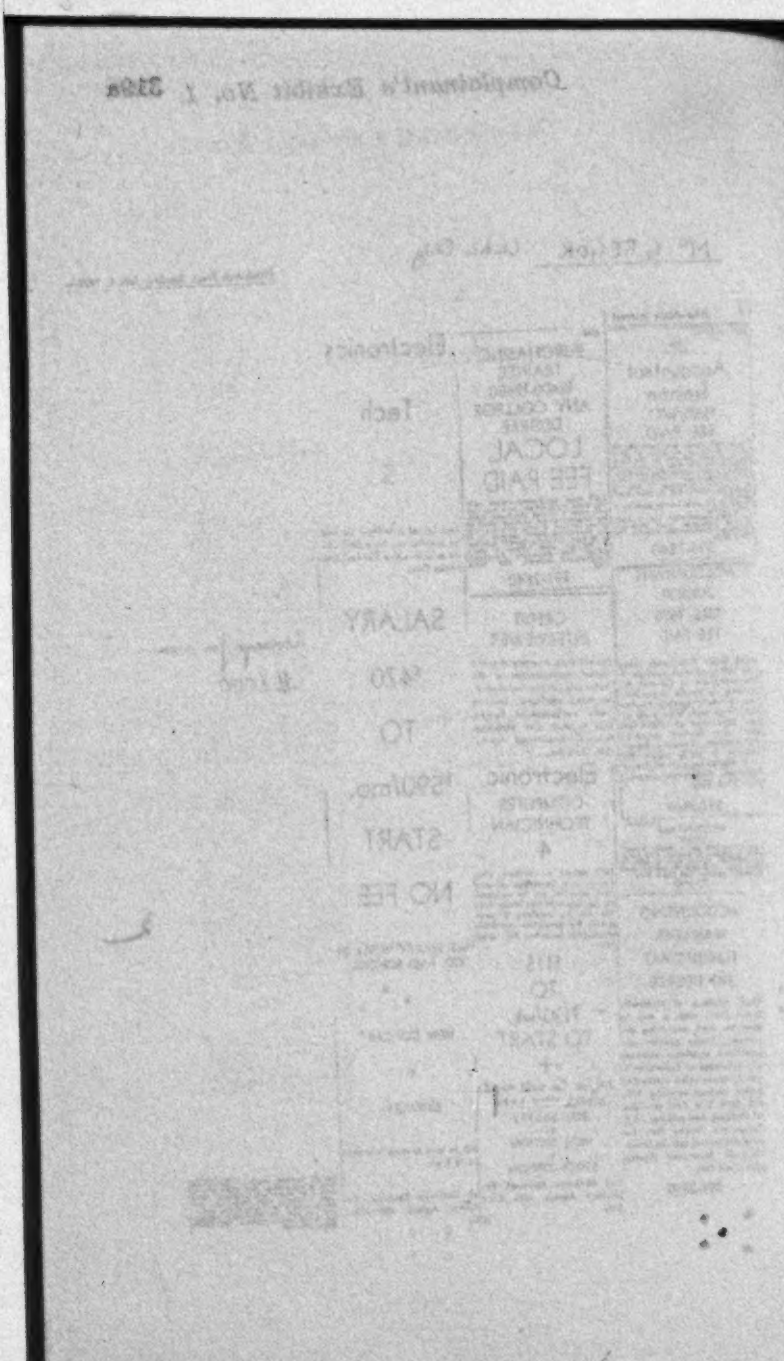
+

EXPENSES

Coverage for men $6000

ull be able to move into Mgt. 2 to 5 yrs.

ll McGregor Personnel, Employment Agency, 1201 Clark Bldg.



ROMAC Rossman Bldg.

Pittsburgh Press, Sunday, Jan. 4, 1970

| 2 John—Male Interest

Data Processing and Accounting

COBOL Programmers
2 years experience in industrial applications. (Telephone, Television, Hospital).
$10,000

Marketing
3 years proven marketing record with knowledge of communications, EDP or similar industry.
To $22,000

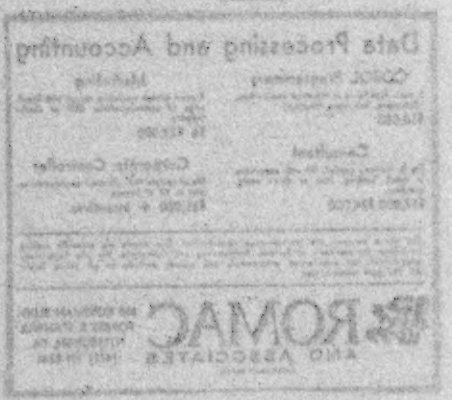
Consultant
Big 8 Nation's capital. EDP with experience in retail, banking, steel or Gov't supply positions.
$17,000-$24,000

Corporate Controller
Major eastern N.Y. chemical corporation, report to VP of finance.
$35,000 + incentives.

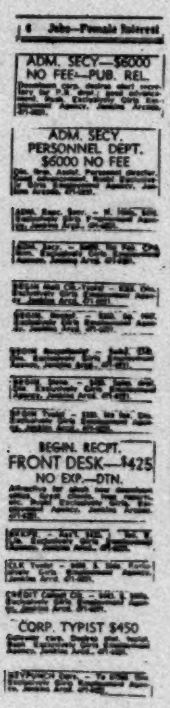
The above positions are representative opportunities. Our clients are currently seeking candidates for managers of Systems, Programming and Operations. We also have many opportunities for experienced programmers and systems analysts at all salary levels. All fee paid opportunities.

ROMAC AND ASSOCIATES
Employment Agency
890 ROSSMAN BLDG.
FORBES & STANWIX
PITTSBURGH, PA.
(412) 391-5344

Computer programmer
21,000


ROMAC
AND ASSOCIATES

EXCLUSIVELY GIRLS Jobs for Women Pittsburgh Press, Sunday, Jan. 4, 1970—



6 Jobs—Female Interest

ADM. SECY.—$8000
NO FEE—PUB. REL.

ADM. SECY.
PERSONNEL DEPT.
$6000 NO FEE

BEGIN. RECPT.
FRONT DESK—$425
NO EXP.—DTN.

CORP. TYPIST $450

Average for Women
$5,200

Complainant's Exhibit No. 1. 325a

MANPOWER — N. American Rockwell Bldg. — Pittsburgh Press, Sunday, Jan. 4, 1970—

8 Jobs—Female Interest

Comptometer

KEYPUNCH AND COMPTOMETER OPERATORS

Top financial rewards for temporary keypunch & comptometer assignments in top companies around town. The pay is high & the hours are flexible. Stop in or call Manpower this week.

MANPOWER

635 N. American Rockwell Bldg.
Cor. Fifth Ave. & Wood St.
Pgh. 391-7030

An Equal Opportunity Employer

LIBRARIAN

Required that you have a degree in library science. This is a long term temporary assignment in the Monroeville area. High pay and no fee. Apply

MANPOWER

635 N. American Rockwell Bldg.
Cor. Fifth Ave. & Wood St.
Pgh. 391-7030

An Equal Opportunity Employer

SECRETARIES AND STENOS.

We have an immediate need for experienced secretaries & stenos and we are paying TOP RATES for these skills. If you would like to work part time for the finest companies in the area please call or apply as soon as possible.

MANPOWER

635 N. American Rockwell Bldg.
Cor. Fifth Ave. & Wood St.
Pgh. 391-7030

An Equal Opportunity Employer

Complainant's Exhibit No. 1. 327a

MEDICAL HOSPITAL PLACEMENT 2506 5th Ave

Pittsburgh Press, Sunday, Jan. 4, 19

8 Jobs—Male Interest

ENGINEER

...ing, steam hospital industry recruit... ...ment for chief facilities, steam ... ...knowledge, degree. Salary $12,... ...Fee paid.
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

PERSONNEL TRAINING CO-ORDINATOR

Personnel Dept needs director ... ...relations to improve training ... ...in service education and ... ...Salary depending on experience. ...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave.

8 Male-Female Help

LAB CLINICAL

...B.S. Degree Med. Chem. and ... ...with emphasis in chemis... ...of bac... ...for laboratory and ... ...position. Salary $300 mon...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

RESEARCH

College chem. background necessary ... ...to train for research project in ... ...laboratory with chief. Work for ... ...medical research. Experienced ... ...positions. Salary open according to ...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

SOCIAL WORKER

...ARMY
...Female, applicant to train as ... ...assistant, preferably employed ... ...who can secure ... ...to ... ...including those interested in ... ...Graduates, Penn and. Salary ... ...to $3,...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

Social Work Supervisor

M.S.W.
...Excellent background ... ...supervising ... ...agency ... ...Salary $... ...to $...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

8 Jobs—Female Interest

CLERK

...Good ... ...shorthand ... ...dictaphone ... ...personal ... ...Light ... ...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

Dir. of Nursing

FEE PAID
...ing ... ...ability to meet ... ...knowledge of ... ...service ... ...the ... ...Work ... ...ing ... ...Duties ... ...to ... ...Salary ... ...to $...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

Executive Secretary

...for ... ...young ... ...in ... ...Salary ... ...to $...
MEDICAL HOSPITAL PLACEMENT
...Fifth Ave., Oakland ...

NURSES

...Part ...
...3 to 11 p.m. for ... ...facility ... ...supervision ... ...of ... ...Part-time ... ...evenings, ...$22 ... ...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

SURGICAL TECH

...Two ... ...Private ... ...open ... ...Fee ... ...pd. ... ...hours ... ...to ... ...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

TYPISTS

...Secretary ... ...position ... ...to work ... ...promoting ... ...Typing ... ...Stenography ... ...to ... ...hours ... ...to ... ...
MEDICAL HOSPITAL PLACEMENT
Bureau Employment Agency
...Fifth Ave., Oakland ...

Average for M/F
$ 16,000

Average for M/F
$ 12,000

Average for ...
$ 8,500

Complainant's Exhibit No. 1.

SALES CONSULTANTS Clark Bldg.

Pittsburgh Press, Sunday, January 4, 1970—

SALES

WANTED!
ALIVE!
Sales Talent

NO CONTRACTS
NO FEES

$7800-$30,000

MOST POSITIONS OFFER COMPANY CAR AND/OR EXPENSE ACCOUNTS.

A RECENT APPLICANT SAID "I'VE TRIED AN EMPLOYMENT AGENCY BUT THIS IS THE FIRST TIME I'VE BEEN INTERVIEWED BY SOMEONE WHO REALLY UNDERSTANDS MY SERVICE."

ACCOUNT EXECUTIVE—$25,000+ EXCELLENT FUTURE. AGGRESSIVE, PRESTIGE FIRM. LOOKING FOR A YOUNG MAN YOUR POSITION SEARCH.

HOSP.-MEDICAL
Do you like working for a company that offers you a challenging, growth oriented, future? Would you like to be associated with a company that is known for its fine reputation in the community? Contact us and learn more about this opportunity. PAUL YEAGER.

FOOD-GROCERY PRODUCTS
Outstanding job opening in planning & control for food manufacturer. Some experience necessary. Salary open. Excellent benefits. Write for more information. Contact RICK JOHNSTON.

OFFICE PRODUCTS—$20K
Our clients need men with good experience. Let us help you find the right solution to the problems. Salary commensurate with ability. Call us today for confidential interview. Contact Mr. BRADLEY.

MECHANICAL—INDUSTRIAL
Our clients want to start the new year with new people. If you are ready for a change, if you are ready to accomplish, call us today. Contact Mr. DALY or Mr. MARTIN.

CHEMICALS—PLASTICS
If you're one heck of a man with chemical sales experience in laundry compounding, polish compounds or the chemical process industry, & really want to be a "big fish in a big pond" you've found it. Call today. Contact JOHN STACKPOLE.

ELECTRICAL ELECTRONIC
Excellent opportunity exists for sale of component components to users & resale. Need aggressive, experienced man. Salary open, plus bonus, profit sharing, car & full fringes. Call or write in confidence. Contact BILL POWELL in Washington.

PACKAGING
PACKAGING MACHINERY
You are particularly invited to write your resume within the packaging field. Management point here is variety of items. Your contact will be executive. Call or write today. Contact BILL POWELL.

CONSUMER PRODUCTS
Outstanding opportunity for sales of cosmetics, health, toys & sporting commodities. Experience in food, drug, cosmetics. Get in touch with PAUL YEAGER.

SALES
CONSULTANTS
281-6900
2206 CLARK BLDG.
717 LIBERTY AVE.
Employment Service

Average for men
$19,000

TOWNE Jenkins Arcade The Pittsburgh Press, Sunday, January 4, 1970—

8 Jobs—Female Interest

BEGINNING TYPIST
NO EXPERIENCE NECESSARY

Great opportunity to get in on the ground floor of this fast growing local company. Typing, light office duties, pleasant surroundings. Call Mr. [illegible] Towne Employment Agency, 3207 Jenkins Arcade Bldg.

GAL FRIDAY

Small amount of typing, shorthand & a pleasant personality are the requirements to fill this opening in a local company. Call Today. Towne Employment Agency, 3207 Jenkins Arcade Bldg.

GENERAL OFFICE (2)

Many job applications of general office duties including accounts receivable, typing & filing. Towne Employment Agency, 3207 Jenkins Arcade Bldg.

GIRL FRIDAY SECRETARY

Downtown firm needs a young woman to take charge of phones, light typing & shorthand required. Top salary & benefits. Towne Employment Agency, 3207 Jenkins Arcade Bldg.

RADIO SALES SECY.
FEE NEGOTIABLE

Downtown radio station is looking for a top notch secretary to generally assist salesmen in presentations and planning. Considerable public contact. Typing and shorthand desired. Salary is commensurate to experience. Call Today. Towne Employment Agency, 3207 Jenkins Arcade Bldg. 391-4290.

RECEPT. TYPIST
FEE NEGOTIABLE

New downtown firm needs a young person with good typing for light receptionist & typing duties. Great opportunity. Towne Employment Agency, 3207 Jenkins Arcade Bldg. 391-4290.

COMPLAINANT'S EXHIBIT NO. 2.

Pittsburgh Press, Sunday, Jan. 4, 1970

C#2

3 Jobs—Male Interest

Professional Placement Specialists

Average for Men

$13,000

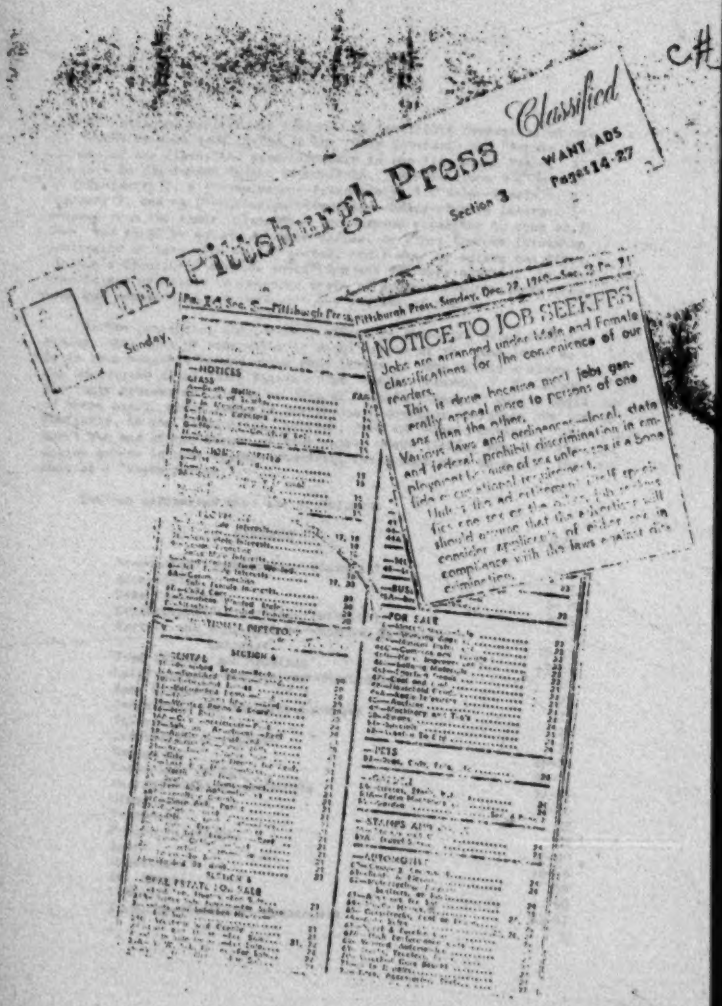
4 Jobs—Female Interest

KEYPUNCH

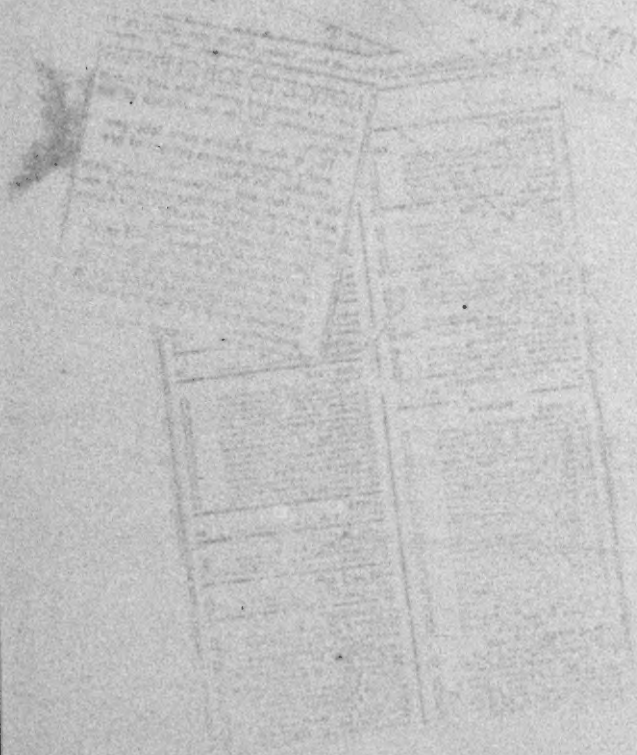
Average for Women

$ 3000

COMPLAINANT'S EXHIBIT NO. 3.



COMPLAINANT'S EXHIBIT NO. 3.



Complainant's Exhibit No. 3.

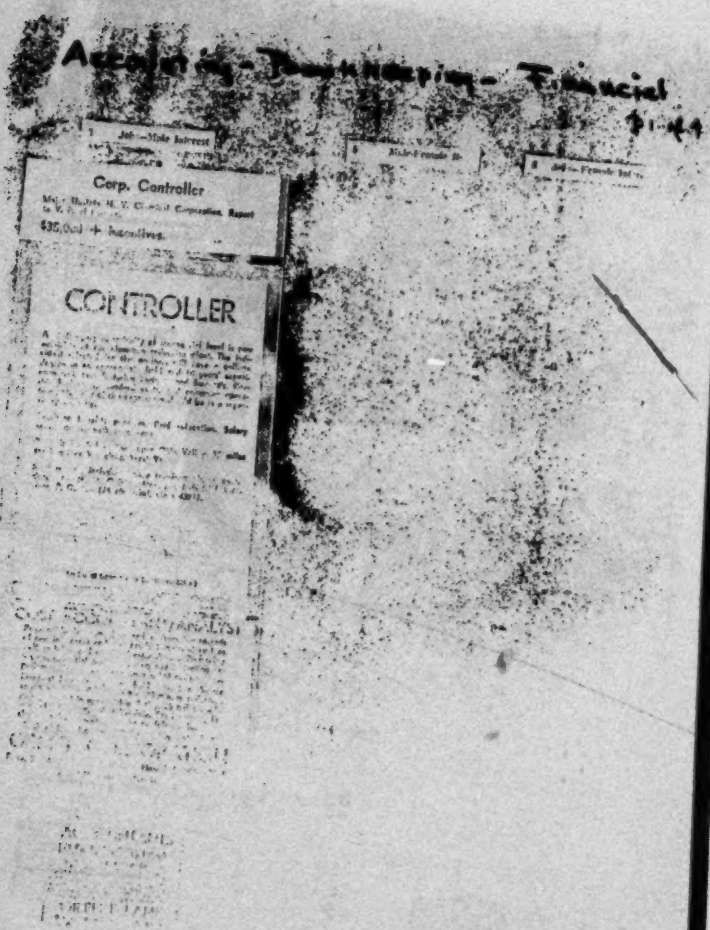
The attached exhibit was prepared to facilitate comparison of sal... job levels between jobs listed in the "Male Interest" and "Female Inter... columns of the classified advertisements in the Pittsburgh Press. Al... listings in the Sunday Press, December 28, 1969--Sections 3 ("Male In... 3A ("Engineers"), 4 ("Commission--Franchise"), 5 ("Male--Female"), 6 ... Interest"), and 6A ("Commission--Franchise--Sales--Female Interest")... removed from the paper, classified into groups according to type or f... work, and rated by salary, when specified, or other factors (probable ...stige, similarity to jobs with salary stated, etc.) when no salary was given. ...ly "Season's Greetings" ads not specifying any job were omitted. In som... ...s, when it was necessary to separate parts of agency advertisements, the ... ...v name was removed and not used with any portion of the ad.

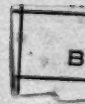
Within categories the ads were placed in descending order of sala... status, with jobs of approximately equal salary at the same level on ... ...e. It is thus possible to determine what levels of jobs within a given f... are advertised as of "Male Interest" or "Female Interest." For examp... ...s the "Data Processing" field, no jobs of "female interest" appear until ... ...of three pages, where computer and keypunch operator positions are loc... ...Similarly, in the "Accounting" section, jobs of "Female Interest" do n... appe... until the end of the second of four pages, where similar ads from the ... agency appear in both columns--however, the female must be a CPA; the ... must be a "sharp person."

The job categories used are as follows:

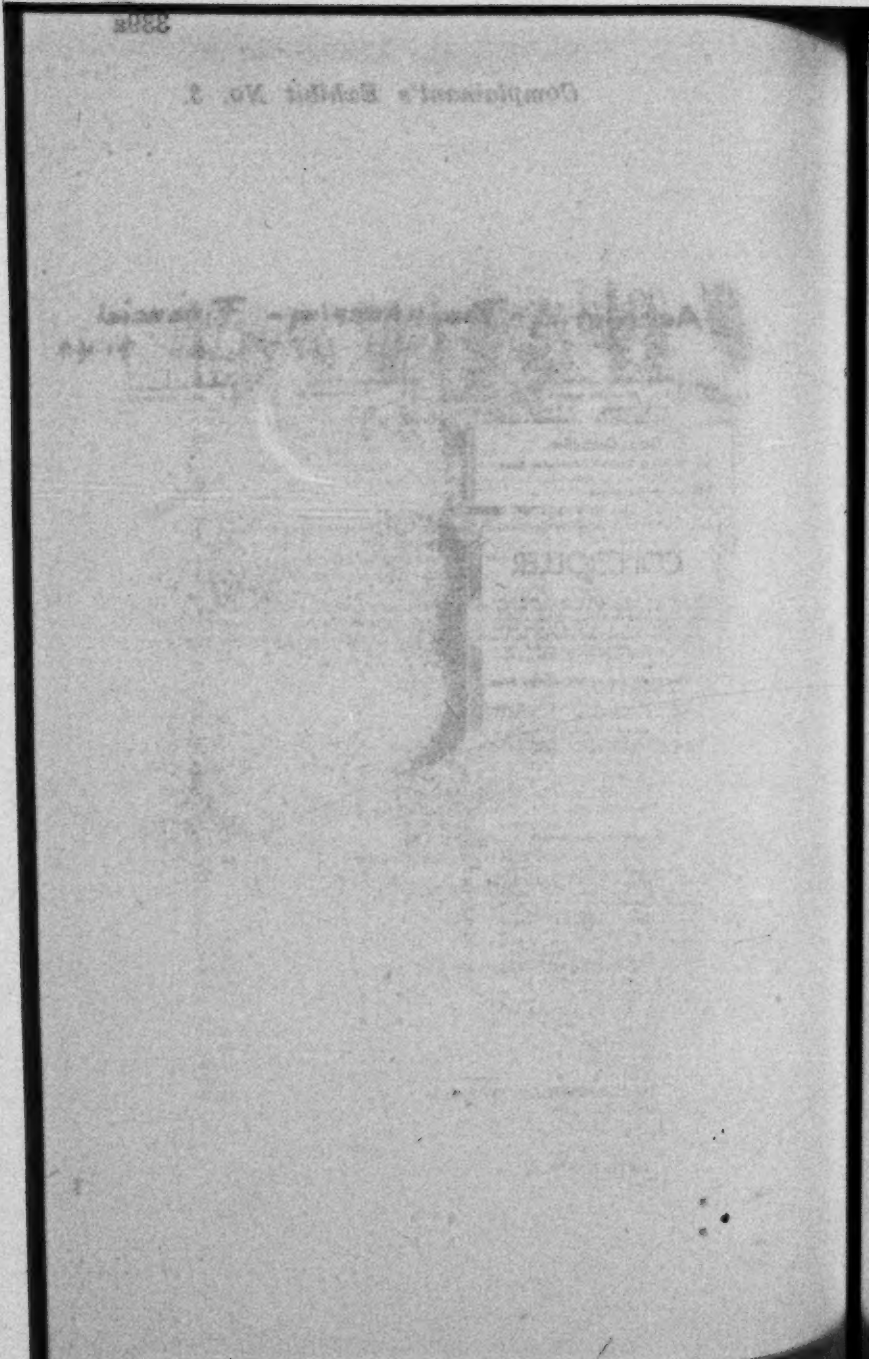
CATEGORY	PAGES
Accounting--Bookkeeping--Financial	1- 4
Advertising	5
Data Processing	6- 8
Engineering--Scientific--Technical	9-15
Factory and Shop Workers--Machine Operators--Laborers	15-18
Food Service and Handling	19-20
Hairdressers--Beauticians--Manicurists	21
Home Services	22
Industrial and Business Services	23
Insurance	24
Investigators--Guards	25
Management	26-29
Mechanics--Repair	30-31
Medical--Dental--Hospitals	32-34
Miscellaneous	35-36
Personnel	37
Public Relations	38
Sales	39-48
Secretarial	49-58
Sex Appeal	59
Teachers	60
Trucking--Delivery--Messengers	61-62

Complainant's Exhibit No. 3.





URRED PAGES



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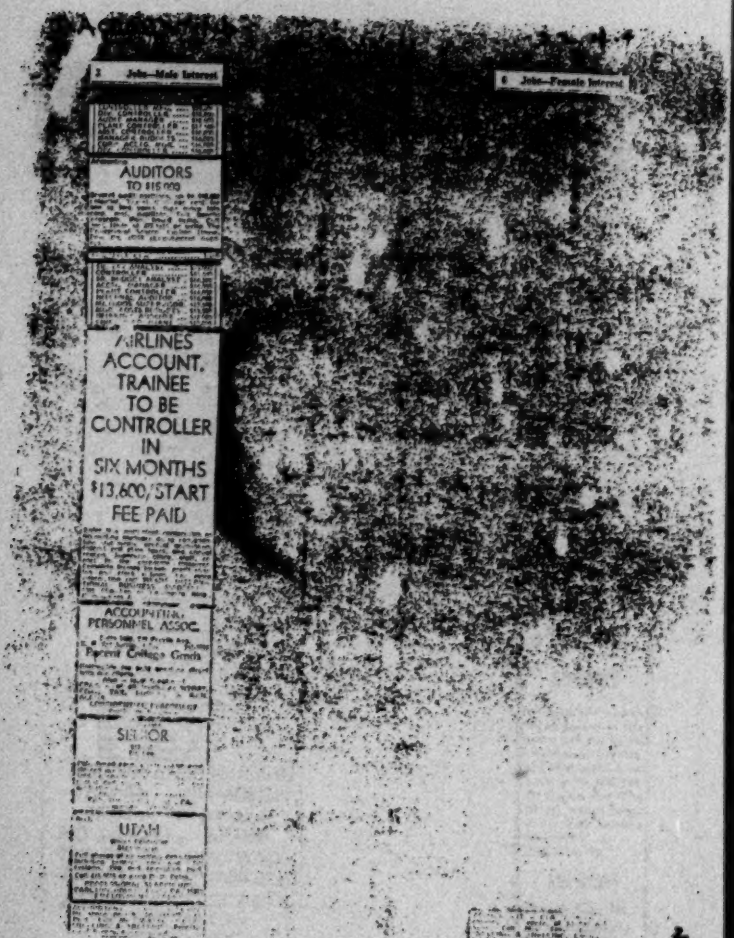
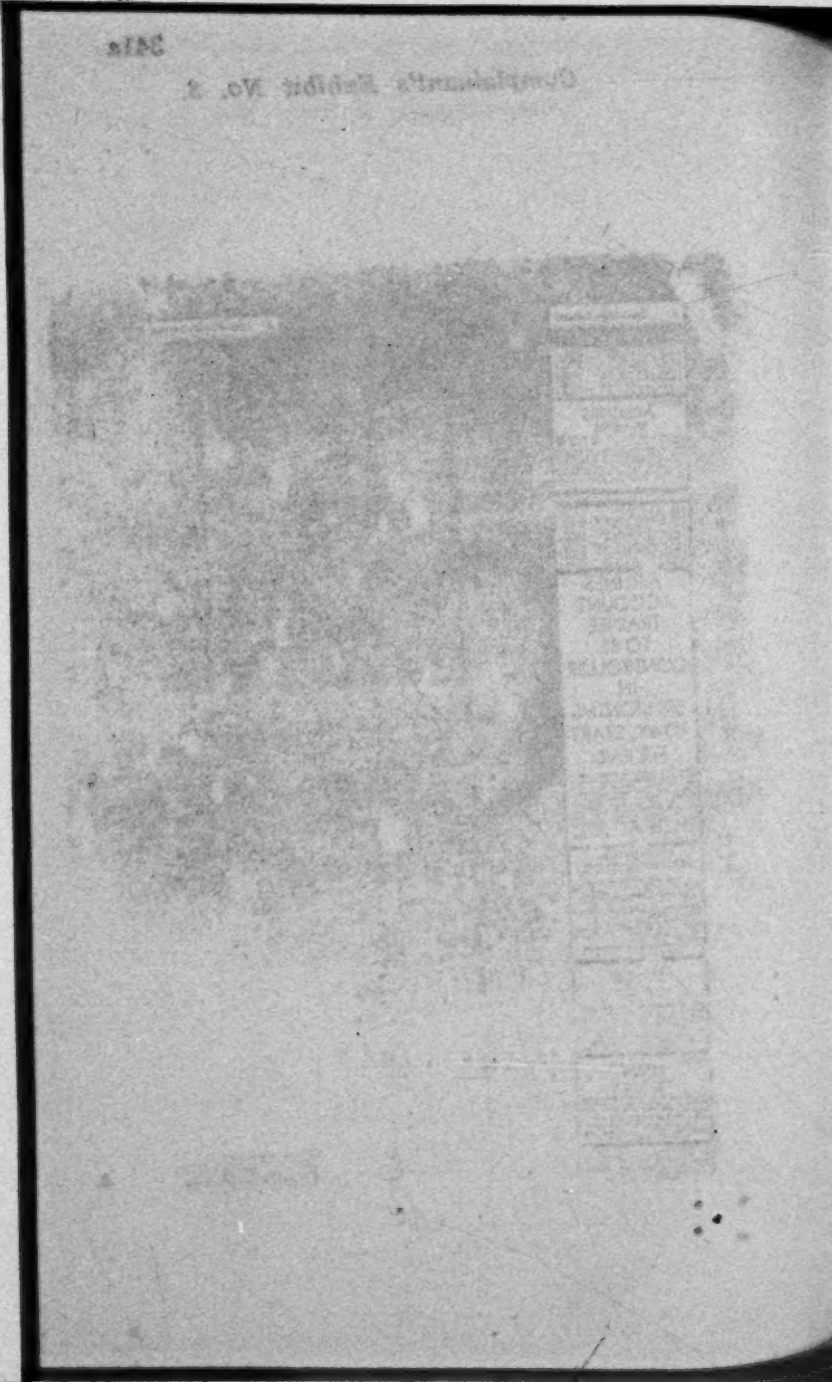
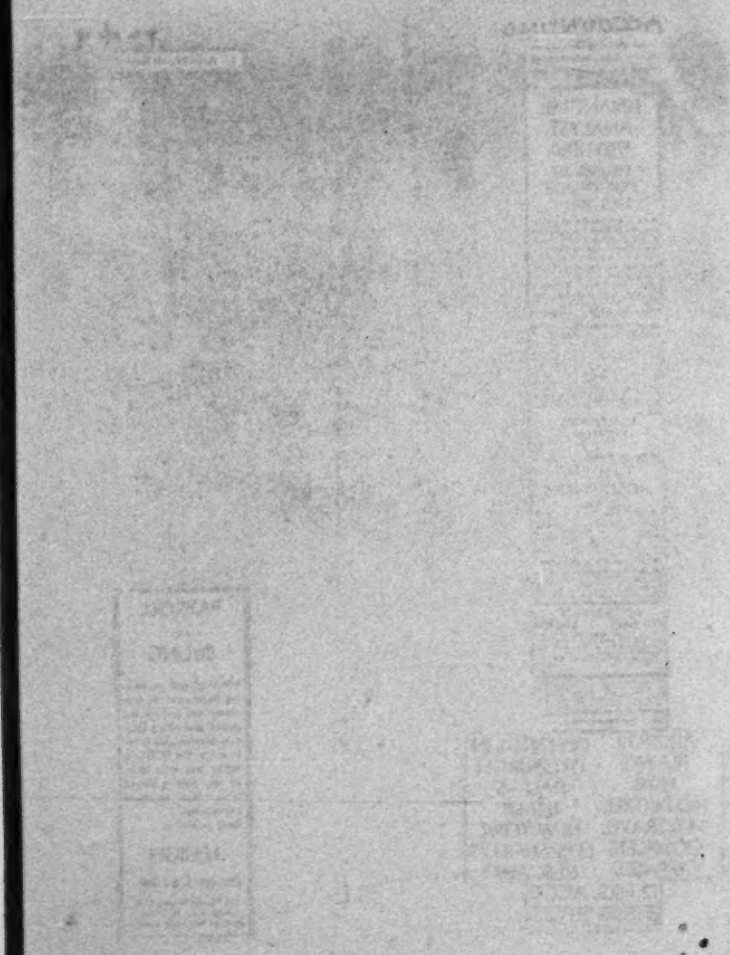




Complainant's Exhibit No. 3.

Complainant's Exhibit No. 8.



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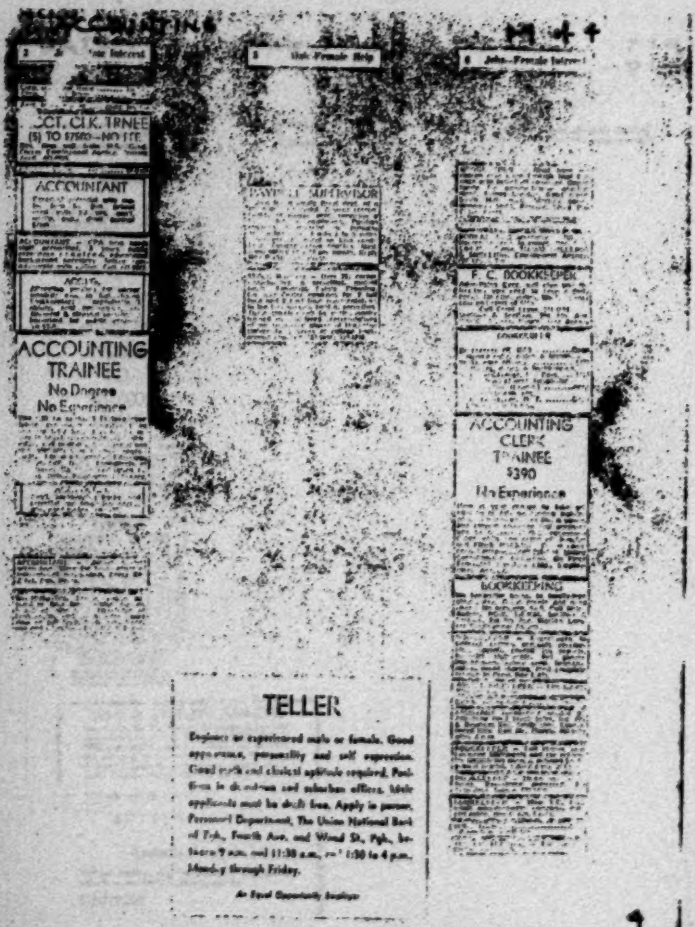


ACCOUNTING

SCT. CLK. TRNEE
($) TO $7500—NO FEE

ACCOUNTANT

ACCOUNTING
TRAINEE
No Degree
No Experience

F. C. BOOKKEEPER

ACCOUNTING
CLERK
TRAINEE
$390
No Experience

BOOKKEEPING

TELLER

Beginner or experienced male or female. Good appearance, personality and self expression. Good math and clerical aptitude required. Positions in downtown and suburban offices. Male applicants must be draft free. Apply in person, Personnel Department, The Union National Bank of York, Fourth Ave. and Wood St., 9th, between 9 a.m. and 11:30 a.m., or 1:30 to 4 p.m., Monday through Friday.

An Equal Opportunity Employer

Complainant's Exhibit No. 3.

DATA PROCESSING

Pick
Pick

Jobs—Male Interest | Male-Female Help | Jobs—Female Interest

SYSTEMS CONSULTANT
$15,000
TO
$20,000
LOCAL

SYSTEMS
$12,000 to $25,000

GILBERT LANE

SENIOR SYSTEMS ANALYST

Systems Analyst
$15-$20,000

6

Complainant's Exhibit No. 8.

DAT. PROCESSING

p.2 of 3

2 Jobs—Male Interest

3 Male-Female Help

3 Jobs—Female Interest

SYSTEMS ANALYSTS $12 TO $20K

COMPUTER CAREER CENTER

D. P. SYSTEMS

PROGRAMMER BROADEN YOUR EXPERIENCE $1,400 FEE PAID

7

Complainant's Exhibit No. 3.

DATA PROCESSING

P. 343

COBOL Programmers

PROGRAMMER

COMPUTER OPRS.

KEYPUNCH OPERATOR

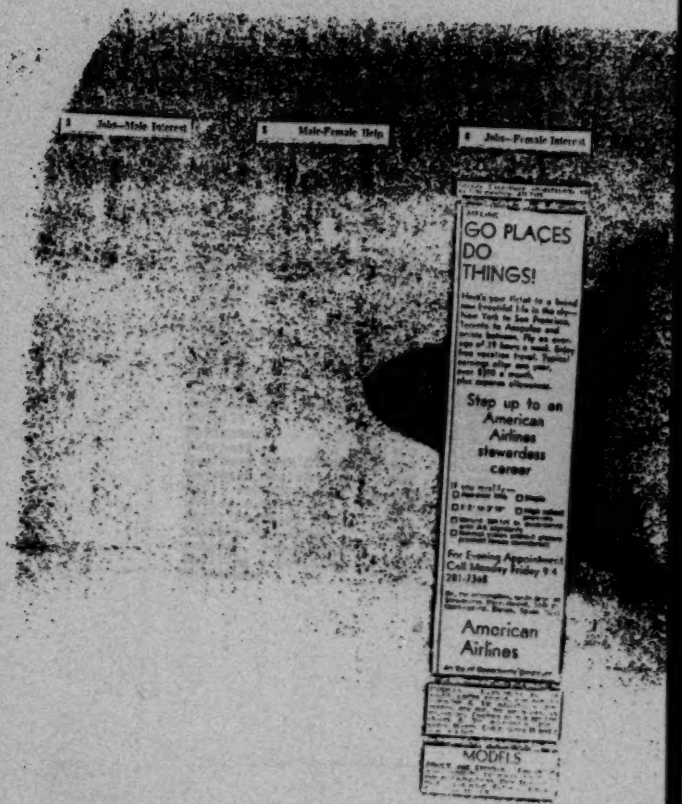
BAILEY

Keypunch Operator

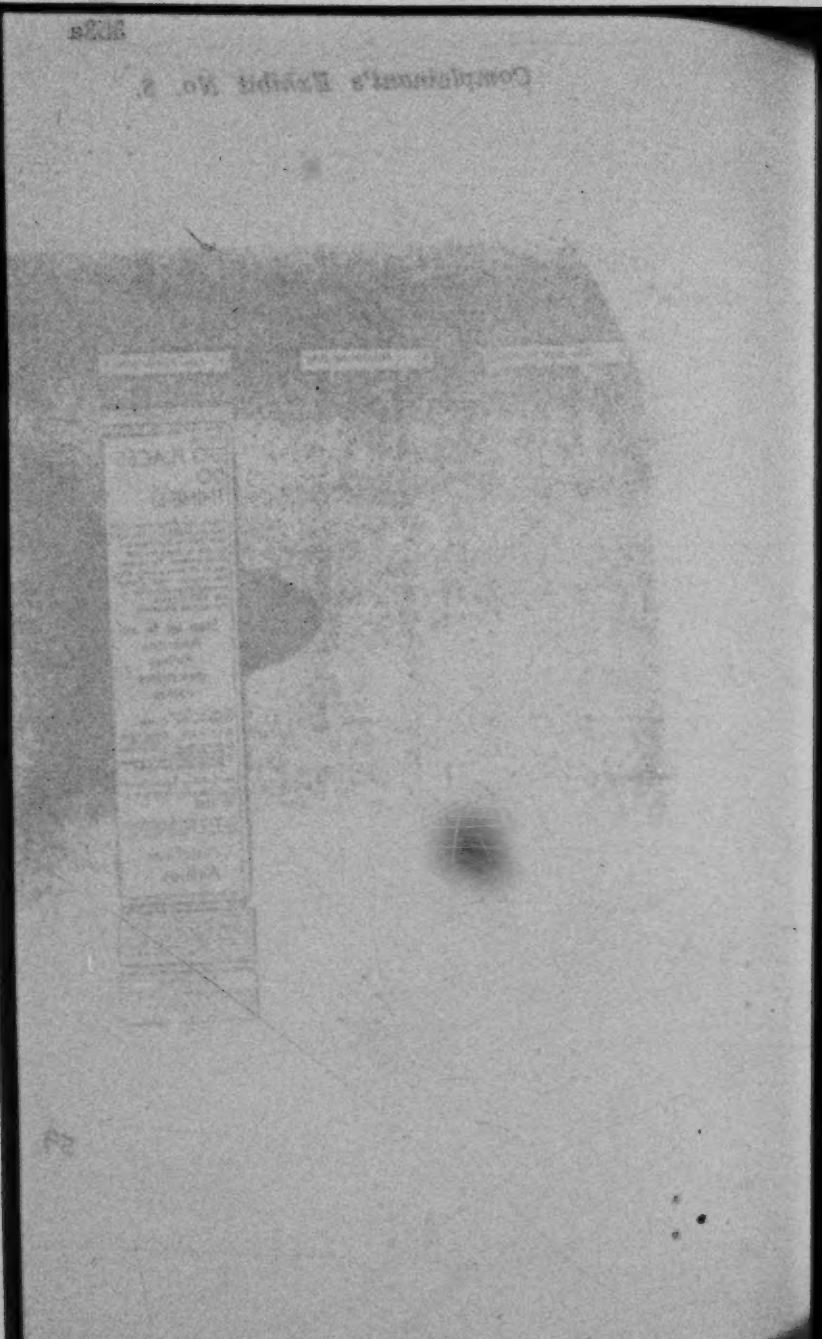
KEYPUNCH OPERATOR

Keypunch Operators

Complainant's Exhibit No. 3.



59



COMPLAINANT'S EXHIBIT NO. 4.

C #4

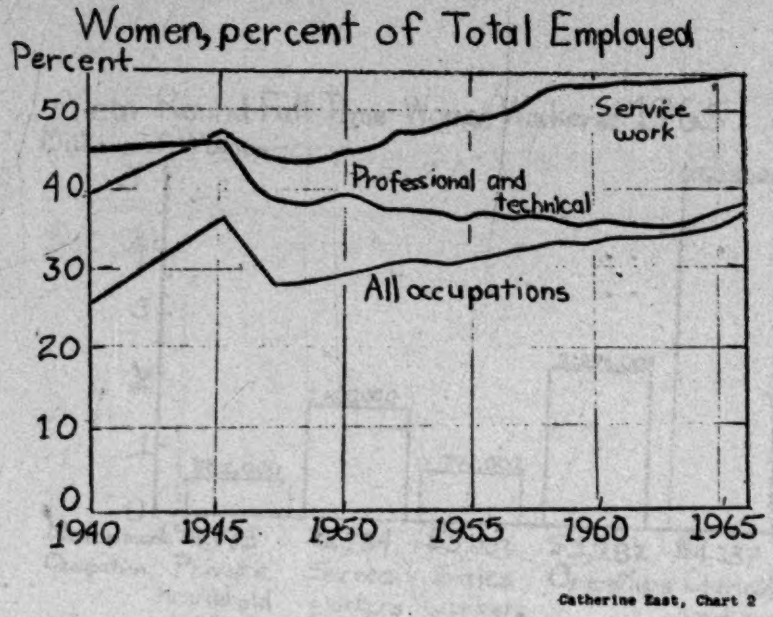
	Male	Female
Consultant Service	$14,000	$5,000
EMR	14,000	5,000
Pyramid	14,000	5,000
Liken	14,000	4,000
Career	12,000	10,000
Cosmopolitan	12,000	6,000
Strauss	12,000	5,000
Beech	11,000	5,000
Emp Spec	11,000	5,000
Rittenhouse	11,000	5,000
American Bus Centr	10,000	6,000
Dunhill	10,000	5,000
Montgomery	10,000	5,000
Pancoast	10,000	4,000
Business Menb Clrghs	9,000	6,000
Computer Search	9,000	6,000
Nat'l Personnel Sys	9,000	5,000
United Consultants	9,000	5,000
Int'l Business Assoc	9,000	4,500
Kearney-McDonough	8,000	4,000
Pongras, S-H-S, and Snelling & Snelling	7,000	5,000
McPherson	7,000	4,000

Gerald Gardner
Chart 1

COMPLAINANT'S EXHIBIT NO. 4.

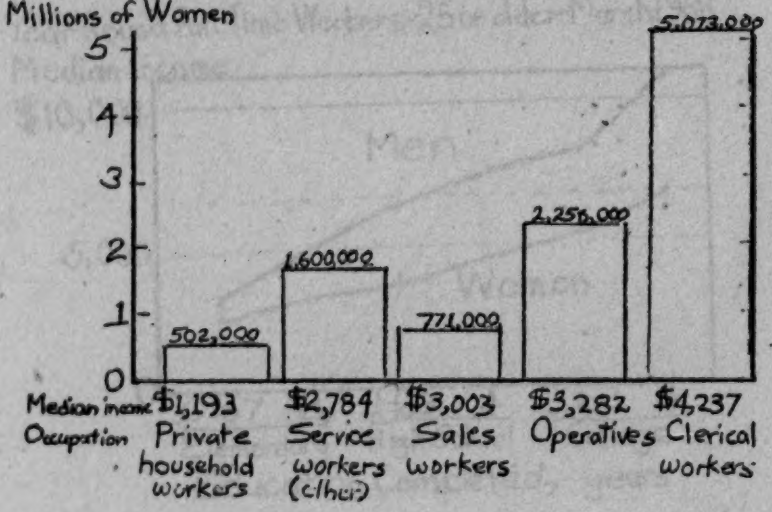
Complainant's Exhibit No. 4.

WHITE MEN
NONWHITE MEN
NONWHITE WOMEN
5000
4000
3000



Complainant's Exhibit No. 4.

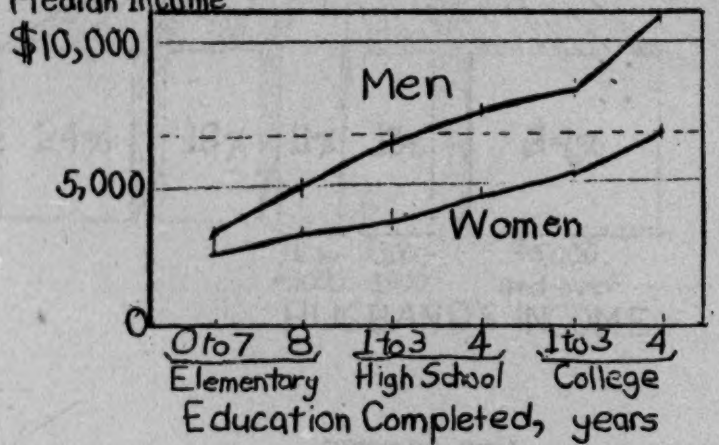
Year-Round Full-Time Women Workers-1965



Catherine East, Chart 3

Compliance Report No. 4

Year-Round Full-Time Workers-25 or older-March 1968



Catherine East, Chart 4

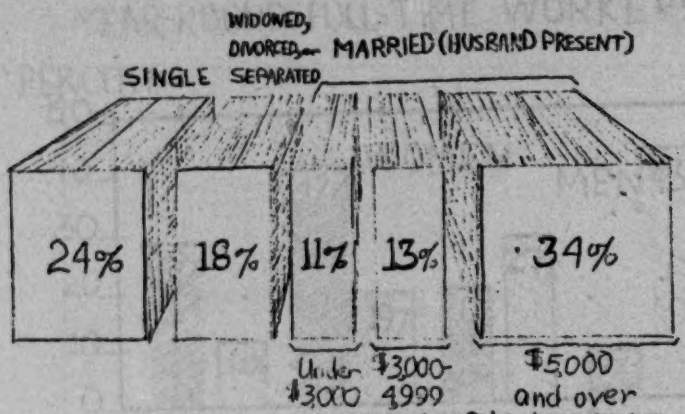
Complainant's Exhibit No. 4.

3058

Complainant's Exhibit No. 4.

Year-Round Full-Time Workers—25th-Median-75th
Median Income
$10,000
5,000
0
Men
Women
Over 8 years of elementary school
1 to 3 years of high school
4 years of high school
1 to 3 years of college
4 years or more of college
Education Completed, Years

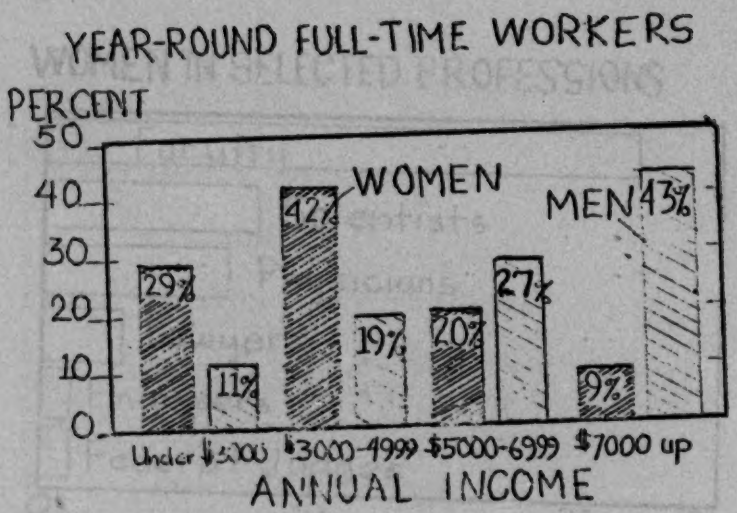
WOMEN WITH WORK EXPERIENCE IN 1965



Catherine East, Chart 5

Complainant's Exhibit No. 4.

365a



Catherine East, Chart 6

Complainant's Exhibit No. 4

AVERAGE HOURLY TRAFFIC COUNTS
AT MOMEN MARKETS

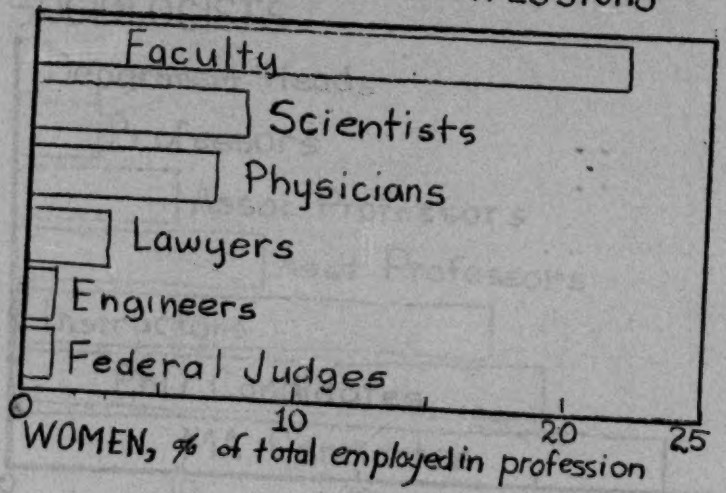
MOMEN

0 10 20 30 40 50

TRUCKS

AVENUE MOMEN

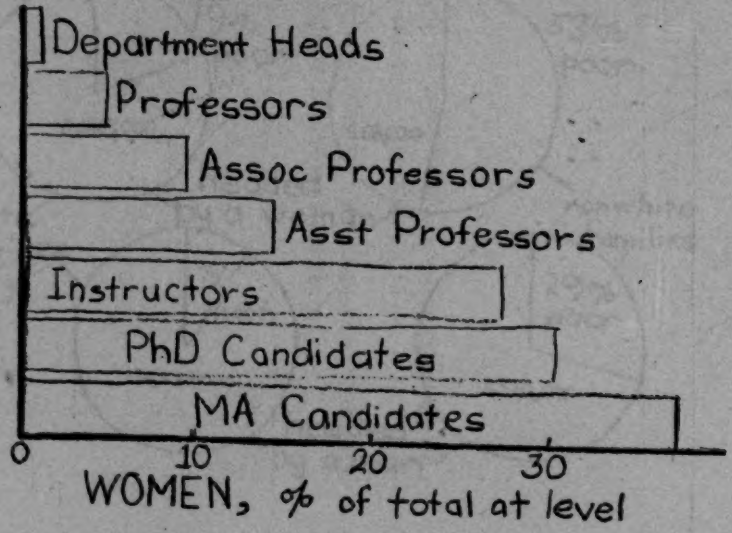
WOMEN IN SELECTED PROFESSIONS



Catherine East, Chart 7

Complainant's Exhibit No. 4. 369a

WORKFLOW SELECTED PROCESSORS
Control
Statistics
Applications
Runners
Log Users
Testing Nodes
0
50
75
WORKFLOW of 3 processors with multiple instances



Catherine East, Chart 8

Complainant's Exhibit No. 4.

Complainant's Exhibit No. 4

SOCIOLOGISTS

Department Heads

Professors

Assoc. Professors

Asst. Professors

Inst. Lectors

Ph.D. Candidates

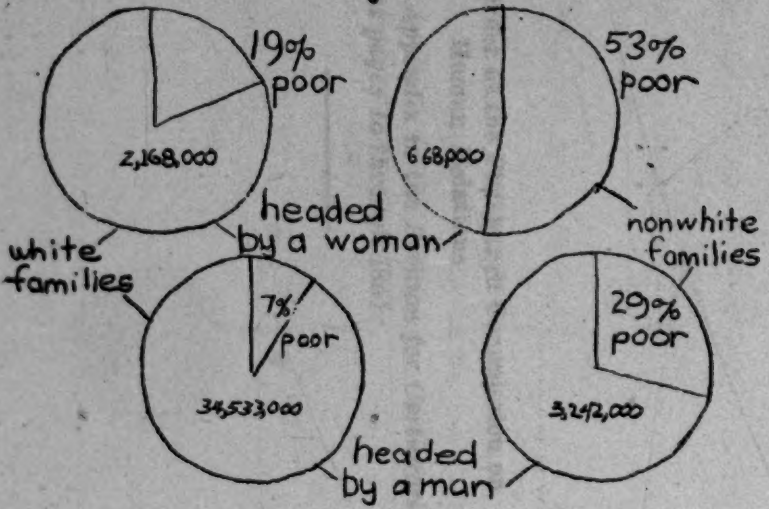
MA. Candidates

WOMEN

20

20

% of total staff



Catherine East, Chart 9

Complainant's Exhibit No. 4.

Complainant's Exhibit No. 4

Families headed by a worker-1969

Decision and Order of the Pittsburgh Commission on Human Relations

(Printed in the Appendix to the Petition for Certiorari at pages 1a through 18a)

Opinion and Order of the Court of Common Pleas of Allegheny County, Pennsylvania

(Printed in the Appendix to the Petition for Certiorari at pages 19a through 45a)

Opinion and Order of the Commonwealth Court of Pennsylvania

IN THE
COMMONWEALTH COURT OF PENNSYLVANIA

PITTSBURGH PRESS COMPANY,
Appellant
v.
THE NATIONAL COMMISSION ON HUMAN RELATIONS, and CITY OF PITTSBURGH,
Appellee
and
THE NATIONAL ORGANIZATION FOR WOMEN, INC.,
Intervenor-Appellee
and
THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION,
Amicus Curiae

No. 315 C. D. 1971

Before:

HONORABLE JAMES S. BOWMAN, President Judge
HONORABLE JAMES C. CRUMLISH, JR., Judge
HONORABLE HARRY A. KRAMER, Judge
HONORABLE ROY WILKINSON, JR., Judge
HONORABLE LOUIS L. MANDERINO, Judge
HONORABLE GLENN E. MENCER, Judge
HONORABLE THEODORE O. ROGERS, Judge

Argued: October 20, 1971

Judge Manderino did not participate in the decision of this case.

Opinion

OPINION BY JUDGE KRAMER January 27, 1972

This is an appeal from an Order of the Court of Common Pleas of Allegheny County dated March 24, 1971, affirming an Order of the Pittsburgh Commission on Human Relations (Commission), appellee, dated July 23, 1970. This Order found the Pittsburgh Press Company (Pittsburgh Press), appellant, to be in violation of the Human Relations Ordinance of the City of Pittsburgh and ordered the utilization of a "classification system of employment advertisement with no reference to sex."

This case was commenced on October 9, 1969, when the National Organization for Women (N.O.W.) filed a complaint with the Commission charging the Pittsburgh Press with "deliberate and constant violations" of Section 8(j) of Ordinance No. 75, enacted into law by the Council of the City of Pittsburgh on February 27, 1967, and as amended by Ordinance No. 395*, approved July 8, 1969. After a conference with the parties, the Commission, on November 3, 1969, found that "probable cause" existed to support the filing of the complaint, and a public hearing was directed to be held. On January 6, 1970, the Pittsburgh Press filed its answer to the complaint, and hearings were held before the Commission on four days during January and February 1970.

The Human Relations Ordinance has been upheld as a valid enactment of the City of Pittsburgh within the authority confered upon the City by the Act of

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*"This amendment added the word "sex" to the list of protected classes.

March 7, 1901, P.L. 20, Article XIX, Section 3, Clause XLIII, 53 P.S. 23158. *See City of Pittsburgh v. Plumbers' Local Union No. 27,* 113 PLJ 7, (1965); *Stanton Land Company et al. v. City of Pittsburgh,* 111 PLJ 9 (1963). Also *see* Act of October 27, 1955, P.L. 744, Section 12.1, as amended, 43 P.S. §961.1.

The "particular" of the complaint of N.O.W. reads as follows:

"The National Organization for Women charges the Pittsburgh Press with deliberate and constant violations of section 8 (j) of the Human Relations Ordinance as amended by Ordinance 395. The National Organization for Women has attempted on several occasions to convince editors and publishers of the Pittsburgh Press that their policy of allowing employers to place advertisements in male or female columns, when the jobs advertised obviously do not have bona fide occupational qualifications or exceptions, is unlawful."

The pertinent provisions of Section 8(j) of the amended ordinance read as follows:

"It shall be unlawful practice . . . except where based upon a bona fide occupational exemption certified by the Commission in accordance with Section 7, subsection (d) of this ordinance: . . .

"(j) for any person, whether or not an employer, employment agency or labor organization, to *aid,* incite, compel, coerce or participate in the doing of any act declared to be an unlawful employment practice by this ordinance, or to obstruct or prevent any person from enforcing or complying with the provisions of this ordinance, or any rule, regu-

lation or order of the Commission, or to attempt directly or indirectly to commit any act declared by this ordinance to be an unlawful employment practice." (Emphasis added)

Section 8 (e) of the amended ordinance declares it to be an unlawful employment practice:

"(e) for any employer, employment agency, or labor organization to publish or circulate, or to cause to be published or circulated, any notice or advertisement relating to employment or membership which indicates any discrimination because of race, color, religion, ancestry, national origin or place of birth, or sex."

Section 7 (d), mentioned in Section 8 (j) above, reads:

"The Commission shall have the power and it shall be its duty to:

"(d) Certify upon the request of any person that a particular occupation or position is exempt from the provisions of this ordinance relating to unlawful employment practices if the Commission finds that the occupation or position reasonably requires the employment of a person or persons of a particular race, color, religion, ancestry, national origin or place of birth, or sex and that such certification is not sought as means of circumventing the spirit and purpose of this ordinance, the burden of proving the facts required for such a finding to be in each instance upon the person requesting the certification of exemption from the provisions of this ordinance."

We should also point out that under definitions in Section 4 of the Ordinance, we find:

"(b) Discriminate and discrimination — The terms 'discriminate' and 'discrimination' include any difference in treatment based on race, color, religion, ancestry, national origin, place of birth, or sex."

The record in this case clearly shows that the Pittsburgh Press has attempted to eliminate discriminatory employment advertising on the basis of sex and thereby achieve the goals of the Ordinance. Illustrative of this attempt are references in the record to changes already made in its advertising column headings and efforts to eliminate the terms "male" and "female" in the body of employment advertising ads. These changes were effected through negotiation and conference with the Commission. The record indicates an intent and desire on the part of the Pittsburgh Press to cooperate with the Commission in eliminating discriminatory wording in employment advertising. This certainly is commendable and to be expected of the Pittsburgh Press in light of its role as one of the nation's leading civil rights advocates in both word and deed.

The complaint of N.O.W., and this opinion, are restricted to alleged discrimination found in employment advertising column headings. The specific wording of the employment advertising column headings which are at issue in this case are three, namely, "Jobs — Female Interest", "Jobs — Male Interest" and "Male — Female Help."

In view of the fact that the court below did not take any additional testimony or receive any additional evidence, the scope of review of this Court is to deter-

mine whether or not the Commission abused its discretion or committed an error of law. *Gabriele v. Boeing Co., Vertol Division,* 1 Pa. Commonwealth Ct. 96, 99, 272 A. 2d 527, 529 (1971), *Romain v. Middletown Area School District,* 1 Pa. Commonwealth Ct. 419, 421, 275 A. 2d 400 (1971).

It should be pointed out that the record also indicates that the Pittsburgh Press publishes, what was termed in the record as, a "disclaimer" at the beginning of the male and female interest want ads, which reads as follows:

> "Notice to job seekers. Jobs are arranged under male and female classifications for the convenience of our readers. This is done because most jobs generally appeal more to persons of one sex than the other. Various laws and ordinances — local, state, and federal, prohibit discrimination in employment because of sex, unless sex is a bona fide occupational requirement. Unless the advertisement itself specifies one sex or the other, job seekers should assume that the advertiser will consider applicants of either sex in compliance with the laws against discrimination."

In its "Decision and Order" the Commission made ten findings of fact which, upon our review of the record, are supported by substantial evidence. The Commission and the court below concluded that in its employment advertising the Pittsburgh Press was aiding employers in discriminating against women through the use of the above-noted column headings, and therefore was engaged in an unlawful employment practice violative of Section 8(j) of the Ordinance.

The lower court, in a lengthy opinion, affirmed the findings of fact and conclusions of law made by the Commission and directed the Pittsburgh Press to comply with the Commission order on or before May 10, 1971. An appeal was taken to this Court, and we granted the prayer of a petition for a supersedeas, pendente lite. The court below was aided by the participation of a number of amici curiae who filed briefs, two of whom were permitted by this Court, to intervene. Briefs were submitted by the Solicitor of the City of Pittsburgh, on behalf of N.O.W. in support of the Commission's Order, and by the American Newspaper Publishers Association (ANPA) in support of the position of the Pittsburgh Press.

The Pittsburgh Press in its brief raises three issues which we will cover in the following sequence. First, the Pittsburgh Press states that the Commission violated its constitutional rights to due process of law by issuing an adverse order based upon a record devoid of any identified, alleged or proven principal offense. Secondly, the Pittsburgh Press argues that its use of the employment advertisement column headings in question does not constitute discrimination as prohibited by the Ordinance. Lastly, the Pittsburgh Press argues that the scope of the order of the Commission as affirmed by the court below exceeds the scope of the Commission's authority and jurisdiction and that it is too broad in proscribing all reference to male and female, in that the Ordinance itself allows certain exemptions.

Due Process

The Pittsburgh Press argues that failure on the part of N.O.W. to specifically allege, prove or identify the principal offense of discrimination renders the Com-

mission's Order invalid in that due process of law was not afforded to the Pittsburgh Press.

The Pittsburgh Press is correct in its assertion that due process of law is as equally applicable to administrative proceedings as it is to judicial proceedings. In *W. J. Dillner Transfer Co. v Pennsylvania P.U.C.* at 175 Pa. Superior Ct., 461, 468-69, 107 A. 2d 159 (1954) our Superior Court said:

> "Appellant argues it was not sufficiently appraised of the issue in that the complaint set forth and charged a violation of appellant's authority at Folder 3 of A. 61744, whereas the Commission based its finding on violation particularly on an interpretation of authority granted at Folder 2 of A. 61744. Admittedly the requirement of procedural due process applies to proceedings before administrative tribunals as well as judicial bodies. The question of what constitutes a specific designation of the issue raised or charges made depends upon the violation alleged and the type of investigation being conducted. *Armour Transportation Company v. Pennsylvania P.U.C.*, 138 Pa. Super. 243, 10 A. 2d 86; . . ."

In the *Armour* case, *supra* the court at 249 cited its earlier opinion in *National Automobile Corp. v. Barfod*, 289 Pa. 307, 311 137 A. 601, 602 (1927):

> "The requirement of due process of law, however, applies to administrative as well as to judicial proceedings. The doctrine of notice and hearing thus becomes a more potent force in our land, because it applies to the decisions and acts of administrative officials and, unless there are extraordinary emer-

gencies this essential requisite of due process cannot be dispensed with."

The *Armour* court also said at 250-51:

"There must be due notice and an opportunity to be heard, the procedure must be consistent with the essentials of a fair trial, and the commission must act upon evidence and not arbitrarily. . . . *Railroad Commission v. Pacific Gas & Electric Co.*, 302 U.S. 388, 393, 82 L. ed. 319.' The question of what is proper notice, or, as here, of what constitutes a specific designation of the issue raised or charges made, depends necessarily upon the facts of each case, the type of investigation being conducted, the violations alleged, and the penalty or order sought to be imposed. Where the purpose of the investigation by the Commission is only to determine the reasonableness of rates charged by utility, a different standard would seem to apply than where the franchise of the utility is sought to be revoked for violation of the utility laws and a penalty or fine imposed."

The ingredients of due process have been discussed in a multitude of judicial opinions. A reading of many of these cases confirms our understanding that due process of law is afforded when (1) the "accused" is informed with reasonable certainty of the nature of the accusation lodged against him, (2) he has timely notice and opportunity to answer these charges and to defend against attempted proof of such accusation, and (3) the proceedings are conducted in a fair and impartial manner. The Pittsburgh Press does not contend that it was denied an opportunity to defend itself or that it

was denied an impartial and fair hearing. The Pittsburgh Press does insist, however, that it was denied due process of law insofar as being unable to determine from the complaint the nature of the alleged offense. In *Commonwealth v. Acquaviva,* et al., 187 Pa. Superior Ct. 550, 145 A. 2d 407, 410 (1958) the Superior Court adopted the lower court opinion of Judge Laub in which he stated:

> "It is sufficient if the language used is capable of an interpretation which reveals such essentials. Lack of precision is not itself offensive to the requirement of due process. The constitution does not require impossible standards; all that is required is that the language convey sufficient definite warning as to the prescribed conduct when measured by common understanding and practices. *Roth v. United States,* 354 U. S. 476, 77 Supreme Court 1304, 1 L. E. 2d 1498."

Although this was a criminal case, the principle is applicable here.

This is an administrative proceeding and is not restricted by the niceties of common law pleadings. The Pennsylvania Legislature in its wisdom permitted the establishment of local administrative agencies to process complaints and hold proceedings to adjudicate issues concerning certain rights of citizens. It certainly was within the contemplation of the Legislature that such a local administrative agency would be lay-oriented. It was contemplated, and is indeed the reality, that persons not formally trained in the law often serve as human relations commissioners. Similarly, it was to be expected that the complaints and charges would be framed

in the language of laymen. Administrative agency proceedings have never been held to the high standards of the law suit filed in a court of law. In *Kochinsky v. Independent Pier Company,* at 157 Pa. Superior Ct. 15, 41 A. 2d 409, 410-11 (1945), the court said:

> "Proceedings before the compensation authorities are not 'litigation', and the strict rules of pleading and practice applicable to common law actions do not apply. The courts take a liberal attitude toward the pleadings in compensation cases and consider the substance of the relief prayed for rather than its form. . . . Of Course, the parties are entitled to know the issue in any particular proceeding so that they may be prepared to meet it by proper evidence.

A determination by this Court that the Pittsburgh Press had sufficient knowledge of the charges against it, thus enabling it to properly defend, would be dispositive of the due process of law question in the instant case. We are in agreement with the Pittsburgh Press argument that the "particulars" (required by the Ordinance) as set forth in the original complaint of N.O.W. lacked some specificity. Nevertheless, we hold that the complaint particulars were adequate and sufficiently specific under the test of fairness. We hold that the Pittsburgh Press was properly and adequately informed of the charged violation of Subsection 8(j) of the Pittsburgh Human Relations Ordinance, as amended. The appellant newspaper had notice and knowledge of the charge that it was aiding employers to unlawfully discriminate by the placing of employment advertisements under the arbitrarily segregated male and female columns on the advertising pages of the newspaper.

The Pittsburgh Press was afforded all of the protection required in the proceedings before the Commission, and therefore we hold that the Pittsburgh Press was not denied its constitutional right to due process of law.

Counsel for the Pittsburgh Press further argues that an additional deficiency in the complaint was the lack of any specific incident wherein column segregated employment advertisments resulted in sex discrimination to a particular woman.

The nature of the charge herein filed is discrimination against a class (women). It is well established that when the Legislature proscribes discriminatory acts against a class it is unnecessary for the complaining class representative to allege specific injured parties. *See Pa. Human Relations Commission v. Chester School District,* 427 Pa. 157, 233 A. 2d 290 (1967). If the advertising column headings here are discriminatory, they are in violation of the Ordinance per se, and there need not be a specific "particular" on an actual discrimination suffered by any particular woman. If discriminatory, the column headings were in violation before the first woman actually suffered any act of discrimination.*

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* We note with interest the language of the Pa. Human Relations Commission, Guidelines In Discrimination Because of Sex, Pa. Bulletin No. 24, Vol. 1, p. 707, Dec. 19, 1970, "The placement of an advertisement seeking applicants for employment in a classified advertisement section under 'Help Wanted - Male', or 'Help Wanted - Female Interest' or similar columns with a sex designation is considered to be a violation of §5(b) (2) [Pa. Human Relations Act, Act of July 9, 1969, P.L. 133, 46 P.S. 955] if an employer is covered by the Act and has not received a bona fide occupational qualification exemption from the Commission."

We note here that contrary to the argument of the Pittsburgh Press that the record does not disclose any specific incident of discrimination against any specific woman, a careful reading of the record indicates that one witness did in fact testify to such a result. Her testimony indicated that she responded to an ad placed in the "Jobs - Male Interest" column for a "dishwasher" and was advised by an agent of the employer that he had been given specific instructions not to hire a female for the advertised job. The interesting point is that counsel for the Pittsburgh Press, while arguing that this testimony was irrelevant, admitted on the record that this witness may well have had legitimate grounds upon which to file a complaint before the Commission. In view of the fact that the discriminatory practice came about as a result of an ad placed by the employer and was published in an arbitrarily segregated "male" column, we hold that there was substantial evidence placed in the record to support the charge made by N.O.W.

Violation of the Ordinance

The Pittsburgh Press argues that its manner of job classification column heading arrangement was selected for the purpose of providing maximum aid to both the advertiser and the job applicant. The Pittsburgh Press insists that this manner of arranging employment advertisements is oriented to the interests of persons seeking employment. The record does not support this contention. The record clearly demonstrates that this sex segregated system of want ad column classification is geared primarily to the interests and desires of employers. The Pittsburgh Press further argues that in the event discriminatory motivations are found on the

part of a particular employer, nevertheless the Pittsburgh Press is exculpated by way of the prior cited "disclaimer".

We have long passed that point in the advancement of civil rights whereby a declaration of intent can be used to screen or defense for actual discrimination. The "separate but equal" principle is no longer a legitimate argument in civil rights cases. We agree with counsel for the Pittsburgh Press when he states, "The purpose of the statute was to prohibit practices which denied job opportunities to individuals because of sex." The Pittsburgh Press cannot frustrate that purpose by a declaration that column headings are arranged for a reader's convenience and that any recourse to be had by women lies against those employers who do in fact discriminate.

The right to work and its concommitant opportunity to achieve economic security and stability are essential to the pursuit of life, liberty and happiness. As early as 1915, the United Sates Supreme Court declared that:

> ". . . the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the Amendment [Fourteenth] to secure. *Truax v. Raich,* 239 U.S. 33, 41, 60 L. ed. 131, 135 (1915)."

To anyone who even once has viewed women participating in a roller derby, the argument that all women are the weaker sex, desirous of only the more genteel work, carries little weight. The success of women Jockeys is further evidence of which we can take notice. It is no longer possible to state that all women desire, or have

an "interest" in, any one type or classification of work. Some women have the desire, ability and stamina to do any work that men can do. Once we accept such a premise it then becomes logically impossible to permit continued segregation of employment want ads by column headings for any job coming within the purview of the Ordinance.

The law recognizes few absolutes and the necessity to recognize the legitimate exceptions continues. As a society we continue to recognize the existence of certain differences between men and women and consequently, exceptions permitted under Section 8 of the Ordinance, *supra*, by certification of the Commission are a legitimate and proper method to differentiate, provided that such grants are both reasonable and legal. Any employer having a legitimate need to so advertise may apply for the legislatively recognized exemption. Interestingly, both the Pittsburgh Press and the ANPA agree that in the absence of an exemption, the Pittsburgh Press could not utilize column headings such as "Jobs - Black Interest" or "Jobs - White Interest" or "Jobs - Catholic Interest" or "Jobs - German Interest", etc.

The appellants argue that the discrimination cases are analogous to the "false advertising" cases, wherein the courts have held that a newspaper cannot be held liable for the false advertising of an advertiser. We feel compelled to reject the analogy for the reason that the maintenance of segregated column headings in and of themselves is indicative of a newspaper's participation in an illegal discriminatory scheme. On the other hand, the simple publication of a particular advertisement

later found to be false, without proof of complicity, actual or constructive, casts no shadows of liability onto a newspaper.

This is not a matter of whether the Pittsburgh Press intentially conspired with some employer or employers to discriminate against women. What is of importance is that through the use of its arbitrarily selected column headings the Pittsburgh Press "aids" such employers to discriminate. When the Pittsburgh Press arbitrarily arranges and publishes such column headings it is aiding in sex discrimination. The ruling that employment want ad column headings be written asexually is appropriate because it eliminates the difficulties of evaluating sophisticated medical, sociological, and actuarial theories of aggregate differences between the sexes. It is proper because it represents the highest degree of societal commitment to the ideal of legal sexual equality. Perhaps more importantly, asexual employment advertising column headings will and in guaranteeing women their fundamental right to be hired and judged on the basis of individual characteristics and capabilities.

The Pittsburgh Press and ANPA argue that a distinction exists between sex and other protected classes. To the contrary, we hold that acts of discrimination prohibited by this Ordinance apply *equally* to "any difference in treatment based on race, color, religion, ancestry, national origin, place of birth, or sex".

There is not one word to be found in the Ordinance which could support appellants' argument that discrimination on the basis of sex is to be treated any differently than discrimination in any of the other categories. Sex,

like race and lineage, is an immutable trait, a status into which the class members are locked by the accident of birth. What differentiates sex from the so-called "nonsuspect statutes", such as intelligence or physical disability, and aligns it with the recognized "suspect" classification (race) is that the characteristic usually bears no relation to ability to perform or contribute to society. The result is that the entire class is abrogated to an inferior legal status without regard to the capabilities or characteristics of its individual members. Women, like blacks have historically labored under legal and social disabilities. Like black citizens, for many years they were denied the right to vote and until recently were unable to serve on juries in many states. Married women in this state were placed in a different position vis-a-vis their property rights. None of these distinctions was based upon legitimate differences. The pedastal upon which history and the law have placed women has evolved into an isolation booth, far removed from the rights afforded the rest of society.

In *Sail'er Inn, Inc., et al. v. Kirby*, 95 Cal. Rptr 329, 334 485, P. 2d 529, 534 (1971), the California Supreme Court refused to uphold legislation designed to protect women in not permitting them to work behind a liquor bar. The Court said:

> "But even if we assume that bartending is more dangerous than waiting on tables, there is no evidence that women bartenders are more likely than male bartenders to suffer injury at the hands of customers. A desire to protect women from the general hazards inherent in many occupations cannot be a valid ground for excluding them from those occupations under Section 18. Women must

be permitted to take their chances along with men when they are otherwise qualified and capable of meeting the requirements of their employment."

In *Weeks v. Southern Bell T. & T. Co.*, 408 F. 2d 228, 236 (1969), the Court stated:

"What does seem clear is that using these class stereotypes denies desirable positions to a great many women perfectly capable of performing the duties involved . . . Moreover, Title VII* rejects just this type of romantic paternalism as unduly Victorian, and instead vests individual women with the power to decide whether or not to take on unromantic tasks. Men have always had the right to determine whether the incremental increase in remuneration for strenuous, dangerous, obnoxious, boring or unromantic tasks is worth the candle. The promise of Title VII is that women are now to be on equal footing. We cannot conclude that by including the bona fide occupational qualification exception Congress intended to renege on that promise. . . . The principle of non-discrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group. (And at page 235) We conclude that the principle of non-discrimination requires that we hold that in order to rely on the bona fide occupational qualification exception, an employer has the burden of proving that he had reasonable cause to

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*"Title VII" refers to the Civil Rights Act of 1964, 42 U.S.C. 2000 (e)".

believe, that is, a factual basis for believing, that all or substantially all women would be unable to perform safely and efficiently the duties of the job involved.

This quotation captures the essence and purpose of this Pittsburgh Ordinance.

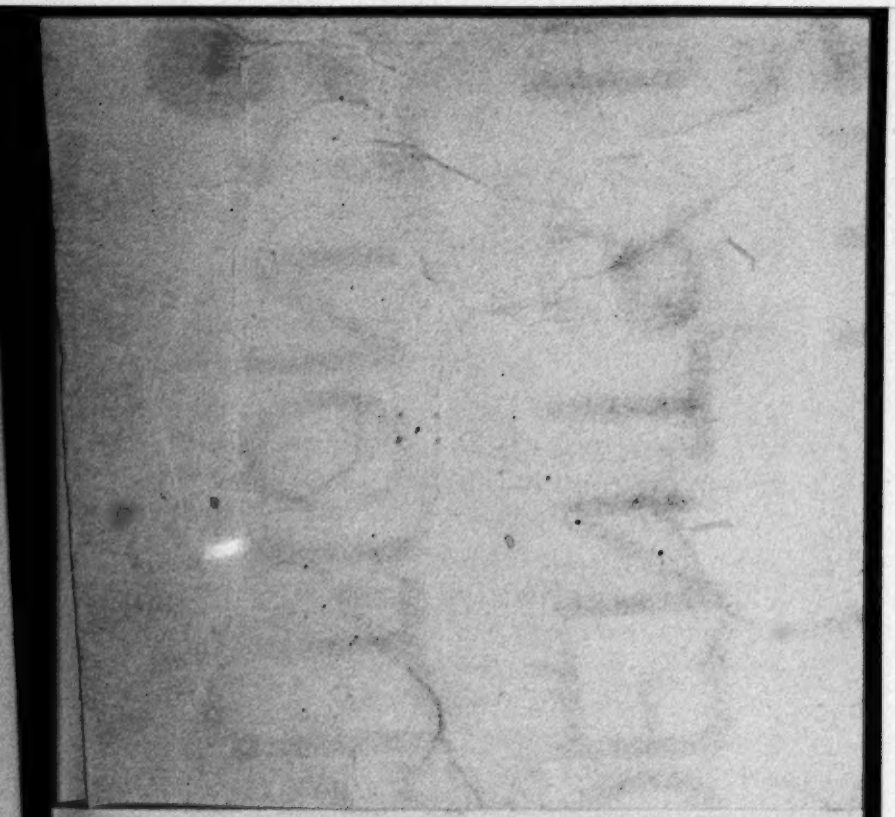
The state of a human being without a job is a neutral fact, equally applicable to both sexes. The finding of a job should also be a neutral fact, equally accessable to both sexes.

In *Richards v. Griffith Rubber Mills,* 300 F. Supp. 338, 340, (D. C. Or. 1969), the United States District Court held that the refusal to hire a qualified woman job applicant could no longer be supported by reliance on a state law and ruled as follows:

". . . Except in rare and justifiable circumstances . . . the law no longer permits either employers or the states to deal with women as a class in relation to employment to their disadvantage. . . . Individuals must be judged as individuals and not on the basis of characteristics generally attributed to racial, religious or sexual groups."

In the case of *Reed v. Reed,* not as yet reported, but handed down by the United States Supreme Court on November 22, 1971, 40 LW 4013, where the Court held unconstitutional those portions of an Idaho statute giving preference to males in the granting of letters of administration in estates, the Court said:

"So long as the law deals only with a characteristic found in all, (or some) women but no men, or in all (or some) men but not in women, it does not



ERRATA

Page 395a, lines 32 through 34; page 396a, lines 1 through 5

Delete quotation from Reed v. Reed; substitute the following:

"By providing dissimilar treatment for men and women who are thus similarly situated, the challenged section violates the Equal Protection Clause."

> ignore individual characteristics found in both sexes in favor of an average based upon one sex. . . . Differences should not be based upon the qualities of male or female but upon the characteristics and abilities of the individual."

We are guided by such pronouncements.

Finally, under this section ANPA also raises the specter of an alleged violation of the newspaper's constitutional right to "freedom of the press". We hold this argument to be non-meritorious. A restriction on discriminatory column headings in employment want ads does not interfere with the editorial policy of the newspaper. There is precedent for the principal that advertising, per se, does not come within the purview of this constitutional right. In the case of *Lorain Journal Company v. U.S.*, 342 U.S. 143, 96 L. ed. 162 (1951), the United States Supreme Court held that an injunction restraining a publisher under the Sherman Anti-trust Act from refusing to accept local advertising from customers using a competitive radio station for the same purpose did not violate the constitutional right of freedom of the press as a prior restraint upon what the newspaper could publish.

In the case of *Kovacs v. Cooper*, 336 U.S. 77, 93 L. ed. 513 (1949), the Court upheld a city ordinance prohibiting sound amplifiers used in public streets, stating that although freedom of speech is given a "preferred position", nevertheless "to enforce freedom of speech in disregard of the rights of others would be harsh and arbitrary in itself." As was pointed out by the United States Supreme Court in the case of *Mutual Film Corp. v. Industrial Commission*, 236 U.S. 230, 59 L. ed. 552,

559 (1915), the underlying safeguard of the constitutional provision for freedom of the press is "that opinion is free and that conduct alone is amenable to the law".

Whether the Pittsburgh Press has a constitutional right to print editorials, or news columns, or byline stories for or against sex discrimination is not the issue before us. What is before us is the question of whether in its advertising business the use of arbitrarily sex-segregated employment want ad column headings by this newspaper "aids" an employer in sex discrimination. The Commission and the court below concluded in the affirmative. We affirm those findings and conclusions.

BROADNESS OF COMMISSION ORDER

The Pittsburgh Press properly points out that Section 4(c) of the Ordinance states:

"Employer—Any person who employs five or more employees, exclusive of the parents, spouse or children of such person, including the City of Pittsburgh its departments, boards, commissions, and authorities and any other governmental agency within its jurisdiction, but excluding any religious, fraternal, charitable or sectarian organization which is not supported in whole or part by any governmental appropriations."

Section 4(d) of the Ordinance states:

"Employment — The term 'employment' shall not include the employment of individuals in domestic service."

The record clearly shows that approximately 25 per cent of the advertisers placing employment want ads in the Pittsburgh Press are based within the City of Pittsburgh. The record further indicates that the Ordinance cannot affect out-of-city advertisers seeking employees for jobs located outside the jurisdiction of the Commission. Perhaps more importantly the Pittsburgh Press points out that in the introductory clause of Section 8 it is stated:

> "It shall be an unlawful employment practice, except where based upon applicable national security regulations established by the United States, by the Commonwealth of Pennsylvania, or by any political subdivision of the Commonwealth having jurisdiction in the City of Pittsburgh, or *except where based upon a bona fide occupational exception certified by the commission* in accordance with Section 7, Subsection (d) of this ordinance: . . . ." (Emphasis added)

It is clear then that the Ordinance itself sets forth a number of exemptions whereby it would be legally permissible to discriminate. We are not called upon to pass on the morality or social wisdom of such exemptions; and certainly it is not within the scope of review of this Court to review the philosophical beliefs or the wisdom of the legislative body which created this Ordinance. The question presented to us is whether the order of the Commission was too broad.

For the purpose of clarification on this point, we set forth the order of the Commission which reads as follows:

> "AND NOW, to wit, this 23rd day of July, 1970, in accordance with the foregoing discussion findings

of fact, and conclusions of law, it is ordered, adjudged, and decreed that:

"1. The Pittsburgh Press shall, within thirty (30) days from the date of this order, cease and desist from violating Section 8(j) of Ordinance No. 75 of 1967, as amended, and that

"2. The Pittsburgh Press shall, within thirty (30) days from the date of this order, utilize the classification system of employment advertisement with no reference to sex."

The lower court affirmed this order except as to the extension of time. There can be no question that the order of the Commission restricts the Pittsburgh Press from making *any* reference to sex in its classification system of employment advertising. We must agree with the argument that the order of the Commission is too broad.

Section 402 of the Appellate Court Jurisdiction Act, (ACJA), Act of July 30, 1970, P.L.—(Act No. 223, 1970), 17 P.S. 211.402, gives jurisdiction to this Court on appeals from the common pleas court, when the "application, interpretation or enforcement" of a local ordinance, such as here, is in question. This Court is given the power to modify the order of either the lower court or of the Commission in Section 504* of the ACJA, *supra*. We will therefore modify the above-noted order

*"Section 504. Disposition of Appeals. — An appellate court may affirm, modify, vacate, set aside or reverse any order brought before it for review, and may remand the matter and direct the entry of such appropriate order, or require such further proceedings to be had as many be just under the circumstances."

of the Commission and the order of the lower court, and direct the Court of Common Pleas to enter it in conformity with this opinion. In all other respects we affirm the adjudication of the Commission and the order of the court below.

Based upon the above discussion, we

Order

AND NOW, this 27th day of January, 1972, in accordance with the adjudication of the Pittsburgh Human Relations Commission, dated July 23, 1970, and the Opinion of the Commonwealth Court of Pennsylvania filed this date, it is hereby ordered that the Pittsburgh Press Company shall within thirty (30) days from the date of this Order, cease and desist from violating Section 8(j) of the City of Pittsburgh Ordinance No. 75 of 1967, as amended, including all reference to sex in employment advertising column headings, except as may be exempt under said Ordinance, or as may be certified as exempt by said Commission. This Order shall be entered forthwith in the records of the Prothonotary of Allegheny County at No. S.A. 768 of 1970.

HARRY A. KRAMER,
Judge

CERTIFIED FROM THE RECORD

FRANCIS C. BARBUSH,
Chief Clerk

January 27, 1972.

IN THE
COMMONWEALTH COURT OF PENNSYLVANIA

Opinion

DISSENTING OPINION BY JUDGE CRUMLISH, JR.

Filed: January 27, 1972:

I dissent. The Pittsburgh Press Company has been cited by the Pittsburgh Commission on Human Relations for aiding or participating in the unlawful employment practice of publishing advertisements which discriminate the sexes. The Commission stated in its opinion: "As a necessary step in the adjudication of this case, the Commission must determine whether the action of an employer in causing an advertisement to be placed in a sex-segregated column itself violates the ordinance." I believe that the factual findings of the Commission, as recited in either the formal findings of fact or the text of the Commission's opinion, are not sufficient to support the conclusions that advertising in gender-segregated columns establishes of itself discrimination in employment. Absent proof, Pittsburgh Press cannot be justifiably accused of aiding in an unlawful employment practice.

As the majority said, we are reviewing the findings and conclusions of the Commission and not those of the court below. *Romain v. Middletown Area School District*, 1 Pa. Commonwealth Ct. 419, 421, 275 A. 2d 400 (1971). We must therefore look to the Decision and Order of the Commission in determining whether an unlawful employment practice occurred.

Section 10(i) of the Pittsburgh Human Relations Ordinance reads in part: ". . . If upon all the evidence

presented, the Commission finds that the respondent has engaged or is engaging in an unlawful practice, *it shall state its findings of fact in writing* and shall issue such an order in writing *as the facts warrant . . .*" (emphasis added). For Pittsburgh Press to be guilty of aiding and abetting an unlawful practice, section 10(i) would require factual findings by the Commission evidencing unlawful discrimination by employers. The Commission's failure to substantiate its legal conclusions is fatal to its adjudication of the publisher's guilt.

Only the following findings of fact were set forth by the Commission:

"1. The Pittsburgh Press is a newspaper of general circulation, and is engaged in business as a newspaper within the City of Pittsburgh.

"2. The National Organization for Women is an organization which has as one of its purposes combatting discrimination on the basis of sex. The Pittsburgh Chapter of the National Organization for Women has an office within the City of Pittsburgh.

"3. In 1969, the Pittsburgh Press ran a total of 248,000 help-wanted advertisements in its daily and Sunday editions.

"4. Of this advertising 25 per cent is placed by advertisers based in the City of Pittsburgh.

"5. The Pittsburgh Press permits the advertiser to select the column within which its advertisement is to be inserted.

"6. When an advertiser does not indicate a column, the Press asks the advertiser whether it wants a male or female for the job and then inserts the advertisement

in the jobs — male interest or jobs — Female interest column accordingly.

"7. Prior to October of 1969, the Pittsburgh Press carried headings or captions on its relevant employment column as follows: "Male Help Wanted," "Female Help Wanted," and "Male-Female Help Wanted."

"8. From October of 1969 to the present time, the captions read: "Jobs — Male Interest," "Jobs — Female Interest," and "Male-Female."

"9. The Pittsburgh Press is an agent for the Pittsburgh Post-Gazette is the processing of employment advertisements.

"10. The Pittsburgh Press is the twelfth largest classified advertisement newspaper in the United States. The approximate circulation of the Pittsburgh Press daily is 350,000 and on Sunday 750,000."

These form the basis which purports to support the Commission's legal conclusion that "[i]t is an unlawful employment practice for an employer . . . to cause to be published an employment advertisement in a newspaper column, which column contains a caption with a designation as to sex." Clearly, the factual findings of the Commission, standing alone, do not support the conclusion reached. There is no factual showing that gender-segregated advertisements, with prominent disclaimers of discrimination, do in fact cause discrimination in employment.

The decision of the Commission allows three bases for its conclusion that gender-segregated columns are unlawful advertising by employers. First, it relies on the testimony of the Press' Classified Ad Manager who said that, in determining in which column to insert the

advertisement of a prospective employer who did not proffer a column preference, he advises the employer which of the sexes usually fills that particular position or he tries "to find out what type of person [the employer is] looking for." Although this testimony is damaging to the publisher's case, I see nothing more to this than that in an undetermined number of cases, all of which could have been exempt from or beyond the limits of the Commission's jurisdiction, employers do advertise in a particular column for the purpose of obtaining the service of a male or female. It was incumbent upon the Commission, however, to determine by evidence and factual findings, that the publisher's system was so egregious as to require the complete elimination of the practice rather than increased policing or regulation of it.

The second reason advanced by the Commission in its conclusion was "the necessary implication of the segregated columns . . . that men are given preference for jobs in one set of columns, and women are given preference for jobs in the other set . . . supported by the fact that the Pittsburgh Press runs a third section of employment advertisements, 'male-female' . . . available to men or women without discrimination." Are we to uphold the Commission's conclusion of "necessary implication" of discrimination when this conclusion is neither explained or substantiated by factual finding? Can we not say that another "necessary implication" is that an employer is seeking to reach the greatest number of qualified applicants by his action? Placing an advertisement in a gender-segregated column with this motive would not be illegal practice. Would the Commission proscribe advertising in the Jewish Ex-

ponent or Ebony Magazine because of the "necessary implication" that such advertisements do not reach non-Jewish and non-Black potential applicants? State and municipal administrative tribunals must act upon the findings of fact as adopted by them. They may not rely upon "necessary implications" without adopting a sufficient basis in fact to support it.[1]

Finally, the Commission, takes notice of certain jurisdictions which have found gender-segregated column unlawful per se. In each jurisdiction, the determination of unlawfulness was made by administrative regulation. The conclusion of per se discrimination has not heretofore been judicially tested in any of these jurisdictions. Nor has the Commission set forth or adopted the factual basis upon which these jurisdictions have reached this conclusion.

It is most unfortunate and disturbing to me to observe that in this landmark litigation, the adjudicating body has chosen to disregard the evidence presented it: that instead of seeking proof of its position, it has chosen to rely on unsubstantiated hunches and feelings. The issue raised herein deserves and requires greater in-depth consideration of the evil of gender-segregated

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1. We note, as the brief for the National Organization for Women suggests, that the testimony of Dr. Sandra Bem of Carnegie-Mellon University contains ample basis for finding that the full force and effect of an ad placed in the male column is to discourage women from applying. However, the Commission made no finding on the issue and did not use this testimony as support in its adjudication. We cannot guess as to the credence and credibility which the Commission ascribed to Dr. Bem's testimony. Under the mandate of section 10(i) of the City's ordinance we can only assume that the Commission disregarded this evidence.

want ads. The Commission's opinion and finding of fact do not substantiate their position that gender-segregated advertising is an unlawful employment practice.

Finally, it is necessary to comment upon the relationship of gender to other traits such as race, religion or ancestry. The court below stated in its opinion that "[s]ex classification is as unlawful as general captions of 'Black', 'White', 'Catholic', 'Presbyterian', 'Italian', 'Polish', or 'German' would be unlawful. [That] court will not reverse the determination that sex is an unlawful general designation just as any other comparable designation which uses sex, race, religion or national origin would be contrary to law.' The majority adopts this position. I cannot, however, agree that classification by gender is by itself discriminatory.

To classify job interest by race or natural origin, while it may have some basis in fact, would be unlawful The illegality of such advertising lies in the fact that the preferences expressed by such groups are the result of socio-economic factors, not inate characteristics of race or national origin. It is unlawful discrimination, without proper basis, to classify race or national origin socio-economically.

Unlike race and national origin, gender classification is based upon biological and emotional differences. The Bona Fide Occupational Qualification exemption for job related discrimination based upon gender clearly demonstrates that gender classification may have non-discriminatory bases in fact. The question of *inate* differences in job *preference,* as well as in occupational ability, is not per se unfounded. We must keep in mind that only unnatural or unjustifiable dis-

crimination is wrongful. In my judgment, discrimination by natural classification does not violate anyone's Constitutional rights.

Because of the nature of sexual differences, as opposed to racial or ethnic differences, it was necessary for the Commission to dispell the notion that the Pittsburgh Press method of gender-segregated advertising results in gender-segregated employment practices which, even if distinguished by gender are based upon bona fide natural differences between the sexes. This classification would not be "discrimination" within the meaning of the Pittsburgh ordinance.

Despite the assertion by the lower court to the contrary, the task before the Commission was not formidable. Indeed the record before it may even contain "substantial evidence" upon which to ground its result. But the Commission must clearly adopt those findings of fact upon which it bases its conclusions of law. It must not be moved by current popular sentiment to implement its own whims, feelings, and philosophy. It must never be so zealous in the protection of the right to be free from discrimination as to act without legal basis; for when government becomes too protective, the basic freedoms we all enjoy erode, move into the legal dark ages, and we are back again to mere hope for basic freedoms.

JAMES C. CRUMLISH, JR., Judge

Judge Mencer joins in this Dissenting Opinion.

Certified from the Record.

FRANCIS C. BARBUSH.
Chief Clerk.
January 27, 1972.

Dissenting Opinion by Judge Mencer.

IN THE
COMMONWEALTH OF PENNSYLVANIA

DISSENTING OPINION BY JUDGE MENCER

Filed January 27, 1972

I respectfully dissent. The complaint in this case alleged a violation by The Pittsburgh Press Company (appellant) of Section 8(j) of the City of Pittsburgh's Human Relations Ordinance. Section 8(j) makes it an unlawful employment practice "to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful employment practice or to obstruct or prevent any person from enforcing or complying with the provisions of this ordinance, or any rule, regulation or Order of the Commission, or to attempt directly or indirectly to commit any act declared by this ordinance to be unlawful employment practice".

The complaint does not allege any violation by anyone else. It is simply impossible for the appellant to be guilty of aiding another in the violation of the ordinance when no violation is even alleged and in fact no attempt was made to prove such a violation. It is fundamental that one cannot aid that which did not occur.

I must conclude that due process clearly requires that, without alleging or proving a violation of the ordinance by an employer who was aided by appellant, the complaint is invalid on its face and should be dismissed.

GLENN E. MENCER, J.

Certified From the Record
FRANCIS C. BARBUSH
Chief Clerk
January 27, 1972

Per Curiam Order of the Supreme Court of Pennsylvania

(Reprinted in the Appendix to the Petition for Certiorari at pages 80a and 81a)

Ordinance No. 75.

HUMAN RELATIONS ORDINANCES OF THE CITY OF PITTSBURGH

ORDINANCE NO. 75

ENACTED INTO LAW BY THE COUNCIL OF THE CITY OF PITTSBURGH ON FEBRUARY 27, 1967. APPROVED BY THE MAYOR, FEBRUARY 28, 1967. RECORDED IN VOLUME 68, PAGE 511, IN THE OFFICE OF THE CITY CLERK.

AN ORDINANCE

Prohibiting discrimination in employment, housing, public accommodations and other areas of intergroup relations in the social cultural and economic life of the City of Pittsburgh; requiring fair employment practices, fair housing practices and fair public accommodations practices by prohibiting discrimination in employment, housing and public accommodations because of race, color, religion, ancestry, national origin or place of birth; establishing a Commission on Human Relations in the Office of the Mayor and prescribing the powers and duties thereof; providing penalties, and revising and consolidating the ordinances relating thereto.

The Council of the City of Pittsburgh hereby enacts as follows:

SECTION 1. SHORT TITLE

This Ordinance may be cited as the Pittsburgh Human Relations Ordinance.

SECTION 2. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

(A) Legislative Findings

(1) The population of the City of Pittsburgh con-

sists of people of every race, color, religion, ancestry, national origin and place of birth, many of whom by reason of their race, color, religion, ancestry, national origin or place of birth are discriminated against in employment opportunities, places of public accommodation, resort, recreation and amusement, and housing facilities.

(2. Discrimination because of race, color, religion, ancestry, national origin or place of birth is contrary to the constitutions, laws and policies of the Commonwealth of Pennsylvania and the United States of America.

(3) Discrimination in employment prevents the gainful employment of large segments of citizens of the City, tends to impair the City's productive capacity, reduce the public revenues, impose substantial financial burdens upon the public for relief and welfare, and tends to create breaches of the peace and depressed living conditions which breed crime, vice, juvenile delinquency and disease, and is detrimental to the public safety, economic growth and general welfare of the City of Pittsburgh.

(4) Discrimination in housing results in overcrowded, segregated areas with substandard, unsafe and unsanitary living conditions, which cause increased mortality, disease, crime, vice and juvenile delinquency, fires and risk of fire, intergroup tensions and other evils, all of which increase the cost of government and reduce the public revenues, and result in injury to the public safety, health and welfare of the City of Pittsburgh.

(5) Discrimination in places of public accommodations, resort, recreation, amusement and places of

business causes humiliation, embarassment and inconvenience to citizens and visitors of the City, tends to create breaches of the peace, intergroup tensions and conflicts and similar evils, and is detrimental to the public safety, general welfare and economic growth of the City of Pittsburgh.

(B) Declaration of Policy

It is hereby declared to be the policy of the City of Pittsburgh, in the exercise of its powers for the protection of the public safety and the general welfare, for the maintenance of peace and good government and for the promotion of the City's trade, commerce and manufactures, to assure the right and opportunity of all persons to participate in the social, cultural, recreational and economic life of the City and to assure equal opportunity for all persons to live in decent housing facilities, free from restrictions because of race, color, religion, ancestry, national origin or place of birth.

To accomplish these goals it shall be the public policy of the City of Pittsburgh to prohibit discrimination because of race, color, religion, ancestry, national origin or place of birth in employment, housing and places of public accommodation, resort, recreation or amusement.

SECTION 3. SCOPE OF THE ORDINANCE

This Ordinance applies to discriminatory practices, including but not limited to discrimination in employment, housing and public accommodations, which occur within the territorial limits of the City of Pittsburgh and to employment, contracted for, performed or to be performed within these limits, and to housing accommodation, resort, recreation and amusement located within the territorial limits of the City.

SECTION 4. DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from context:

(a) Commission—The Commission on Human Relations established in the office of the Mayor of the City of Pittsburgh by this Ordinance.

(b) Discriminate and discrimination — The terms "discriminate" and "discrimination" include any difference in treatment based on race, color, religion, ancestry, national origin or place of birth.

(c) Employer — Any person who employs five or more employees, exclusive of the parents, spouse or children of such person, including the City of Pittsburgh, its departments, boards, commissions, and authorities, and any other governmental agency within its jurisdiction, but excluding any religious, fraternal, charitable or sectarian organization which is not suported in whole or part by any governmental appropriations.

(d) Employment — The term "employment" shall not include the employment of individuals in domestic service.

(e) Employment Agency — Any person regularly undertaking with or without compensation to procure opportunities for employment or to procure, recruit, refer or places employees.

(f) Housing Accommodation — (1) a building, structure or portion thereof which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home, residence or sleeping

place by a person, by a family or by a group of persons living together, or (2) a parcel of real property or lot available for the construction of a housing accommodation.

(g) Labor Organization — Any organization which exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid protection in relation to employment.

(h) Lending Institution — Any bank, insurance company, saving and loan association, or any other person regularly engaged in the business of lending money or guaranteeing loans.

(i) Owner — The term "owner" includes the owner, co-owner, lessee, sub-lessee, mortgagee, assignee, manager, agent, or any other person having the right of ownership or possession or the authority to sell, rent or lease any housing accommodation, or any person having an equitable or security interest in any housing accommodation, including the City of Pittsburgh and its departments, boards, commissions, and authorities.

(j) Person — Any individual, partnership, corporation, labor organization or other organization or association, including those acting in a fiduciary or representative capacity, whether appointed by a court or otherwise. The term person, as applied to partnerships or other organizations or associations, includes their members, and as applied to corporations includes their officers.

(k) Real Estate Broker — Any natural person, partnership, corporation or other association which for a fee or other valuable consideration manages, sells, purchases, exchanges or rents or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of, the real property of another, or holds itself out as engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another, or collect rent for the use of the real property of another, and includes real estate salesman or agents or any other person employed by a real estate broker to perform or to assist in the performance of his business.

(l) Public Accommodation, Resort, Recreation or Amusement — The term "Public Accommodation, Resort, Recreation or Amusement" includes any place, business or activity which is open to, accepts or solicits the patronage of the general public or offers goods, services or recreation to the general public.

ECTION 5. COMMISSION ON HUMAN RELATIONS:

(a) There is hereby established in the Office of the ayor, a commission on Human Relations to administer, plement and enforce the provisions of this ordinance.

(b) The Commission shall consist of fifteen (15) embers to be appointed by the Mayor for a four-year rm. Commisioners may be reappointed to successive rms of office. Each member of the Commission shall ntinue to serve after his term until his successor has en appointed and qualified.

(c) The term of all present members of the Commission shall not be affected by the enactment of this ordinance.

(d) The Commision shall elect one of its members as chairman and may elect such other officers as it may deem necessary. The Chairman may, with the approval of the Commission, appoint such committees as may be necessary to carry out the powers and duties of the Commision and the Commission may authorize such committees to take any necessary action for the Commission.

(e) The Commission shall adopt such rules and regulations for its own organization, operations and procedures as the Commission shall deem necessary to administer, implement and enforce this ordinance.

(f) The Commission shall hold at least ten monthly meetings during each calender year. Five (5) members of the Commission shall constitute a quorum for the transaction of business, and a majority vote of those present at any meeting shall be sufficient for any official action taken by the Commission, except that approval of a majority of the members of the Commission hall be required before any public hearing may be held.

(g) The members of the Commission shall serve without compensation, but they may be reimbursed for all expenses necessary incurred in the performance of their duties in accordance with appropriations made by City Council.

SECTION 6. EXECUTIVE DIRECTOR

(a) The Mayor shall appoint an Executive Director and such other personnel as may be authorized by City

Council to assist the Commission in administering, implementing and enforcing the provisions of this ordinance. In proposing a budget for the operation of the Commission and in selecting the Executive Director and other personnel, authorized by City Council, the Mayor shall take into consideration the recommendations of the Commission.

(b) The Executive Director hall serve as the staff executive officer for the Commission. He shall promote the efficient transaction of its business, the orderly handling of complaints and other matters before the Commission, and shall supervise the Commission, and shall supervise the Commission staff.

(c) The Commission may authorize the Executive Director to initiate complaints of unlawful practices, as set forth in this ordinance.

SECTION 7. POWERS AND DUTIES OF THE COMMISSION ON HUMAN RELATIONS

The Commission shall have the power and it shall be its duty to:

(a) Initiate, receive, investigate and seek the satisfactory adjustment of complaints charging unlawful practices, as set forth in this ordinance.

(b) Initiate or receive and investigate other complaints of discrimination against any person because of race, color, religion, ancestry, national origin or place of birth, and to seek the satisfactory adjustment of such complaints. Any complaint filed under this subsection which the Commission believes may constitute a violation of a law of the United States of America or the

Commonwealth of Pennsylvania may be certified to the City Solicitor for such actions as he may deem proper.

(c) Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith require the production of evidence relating to any matter under investigation or any question before the Commission, make finds of fact, issue orders and publish such findings of fact and orders and do all other things necessary and proper for the enforcement of this ordinance.

(d) Certify upon the request of any person that a particular occupation or position is exempt from the provisions of this ordinance relating to unlawful employment practices if the Commission find that the occupation of a person or persons of a particular race, color, religion, ancestry, national origin or place of birth, and that such certification is not sought as means of circumventing the spirit and purpose of this ordinance, the burden of proving the facts required for such a finding to be in each instance upon the person requesting the certification of exemption from the provisions of this ordinance.

(e) Study and investigate by means of pub-hearings or otherwise any conditions having an adverse effect on intergroup relations in the City of Pittsburgh and to study the problems of prejudice, intolerance, bigotry and discrimination as they effect the public safety and general welfare of the City of Pittsburgh.

(f) Institute and conduct educational and other programs to promote the equal rights and opportunities of all persons, regardless of their race, color, religion,

ancestry, national origin or place of birth, and to promote understanding among persons and groups of different races, colors, religion, ancestries, national origins or places of birth. In the performance of its duties, the Commission may cooperate with interested citizens, private agencies and agencies of the federal, state and local governments.

(g) Issue publications and reports of investigation and research in the field of human relations, and to cooperate with and accept grants from public and private agencies, including foundations, colleges and universities, engaged in similar research.

(h) Request other departments, boards and commissions of the City government to assist in the performance of its duties, and such other departments, boards and commissions shall cooperate fully with the Commission.

(i) Assist in the enforcement of fair practices in City contracts.

(j) Render from time to time a written report of its activities and recommendations to the Mayor and to City Council.

(k) Recommend legislation to promote and insure equal rights and opportunities for all persons regardless of their race, color, religion, ancestry, national origin or place of birth.

(l) Adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this ordinance.

SECTION 8. UNLAWFUL EMPLOYMENT PRACTICES

It shall be an unlawful employment practice, except where based upon applicable national security regulations established by the United States, by the Commonwealth of Pennsylvania, or by any political subdivision of the Commonwealth having jurisdiction in the City of Pittsburgh, or except where based upon a bona fide occupational exemption certified by the Commission in accordance with Section 7, subsection (d) of this ordinance:

(a) For any employer to refuse to hire any person or otherwise discriminate against any person with respect to hiring, tenure, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, religion, ancestry, national origin or place of birth.

(b) For any employer, employment agency or labor organization to establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, the employment or membership opportunities of any person or group of persons because of race, color, religion, ancestry, national origin or place of birth.

(c) For any employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to deny to or withhold from any person the right to be admitted to or participate in a guidance program, an apprenticeship training program, an on-the-job training program or any other occupational training program because of race, color, religion, ancestry, national origin or place of birth.

(d) For any employer, employment agency or labor organization to require of any applicant for employment or membership any information concerning race, color, religion, ancestry, national origin or place of birth.

(e) For any "employer," employment agency or labor organization to publish or circulate, or to cause to be published or circulated, any notice or advertisement relating to "employment" or membership which indicates any discrimination because of race, color, religion, ancestry, national origin or place of birth.

(f) For any employment agency to fail or refuse to classify properly or refer to employment or otherwise to discriminate against any person because of race, color, religion, ancestry, national origin or place of birth.

(g) For any employer substantially to confine or limit recruitment or hiring of employees, with intent to circumvent the spirit and purpose of this ordinance, to any employment agency, employment service, labor organization, training school, training center or any other employee-referring source which serves persons who are predominantly of the same race, color, religion, ancestry, national origin or place of birth.

(h) For any labor organization to discriminate against any person in any way which would deprive or limit his employment opportunities or otherwise adversely affect his status as an applicant for employment or as an employee with regard to tenure, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment

because of race, color, religion, ancestry, national origin or place of birth.

(i) For any employer, employment agency or labor organization to discriminate against any person because he has opposed any practice forbidden by this ordinance or because he had made a complaint or testified or assisted in any manner in any investigation or proceeding under this ordinance.

(j) For any person, whether or not an employer, employment agency or labor organization, to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful employment practice by this ordinance, or to obstruct or prevent any person from enforcing or complying with the provisions of this ordinance or any rule, regulation or order of the Commission, or to attempt directly or indirectly to commit any act declared by this ordinance to be unlawful employment practice.

SECTION 9. UNLAWFUL HOUSING PRACTICES

It shall be an unlawful housing practice, except as otherwise provided in this section:

(a) For any owner, real estate broker or any other person to refuse to sell, lease, sublease, rent, assign or otherwise transfer, or to refuse to negotiate for the sale, lease, sublease, rental, assignment or other transfer of the title, leasehold or other interest in any housing accommodation to any person, or to represent that any housing accommodation is not available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is so available, or otherwise to deny or withhold any housing accommodation from any person

because of race, color, religion, ancestry, national origin, or place of birth, or to discriminate against, segregate or assign quotas to any person or group of persons in connection with the sale, lease, sublease, rental, assignment or other transfer of the title, leasehold, or other interest in any housing accommodation or housing accommodations.

(b) For any person, including any owner or real estate broker, to include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any housing accommodation any clause, condition or restriction discriminating against, or requiring any other person to discriminate against, any person in the use or occupancy of such housing accommodation because of race, color, religion, ancestry, national origin or place of birth.

(c) For any person, including any owner or real estate broker, to discriminate in the furnishing of any facilities or services for any housing accommodation because of race, color, religion, ancestry, national origin or place of birth.

(d) For any person, including any owner or real estate broker, to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, and communication, notice, advertisement or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer or listing of a housing accommodation or accommodations which indicates any preference, limitation, specification or discrimination based on race, color, religion, ancestry, national origin, or place of birth.

(e) For any person, including any bank, banking organization, mortgage company, insurance company or other financial or lending institution, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or housing accommodations:

(1) to discriminate against any person or group of persons because of race, color, religion, ancestry, national origin or place of birth of such person or group of persons or of the prospective occupants or tenants of such housing accommodation in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of service in connection therewith; or

(2) to use any form of application for such financial assistance or make any record or inquiry in connection with applications for such financial assistance which indicates, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, ancestry, national origin or place of birth, or any intent to make any such limitation, specification or discrimination.

(f) For any real estate broker or real estate salesman or agent, or any other person for business or economic purposes, to induce, directly or indirectly, or to attempt to induce directly or indirectly, the sale or rental or the listing for sale or rental, of a housing accommodation by representing that a change has occurred or will or may occur with respect to the racial, religious

or ethnic composition of the street, block, neighborhood or area in which said housing accommodation is located.

(g) For any person, whether or not a real estate broker, real estate salesman or agent, owner or lending institution to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful housing practice under this ordinance, or to obstruct or prevent enforcement or compliance with the provisions of this ordinance or any rule, regulation or order of the Commission, or to attempt directly or indirectly to commit any act declared by this ordinance to be unlawful housing practice.

(h) Nothing in this ordinance shall bar any religious or sectarian institution or organization, or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious or sectarian organization, or any bona fide private or fraternal organization from limiting admission to or giving preference to persons of the same religion or sect, or to members of such private or fraternal organization, or from making such selection as is calculated by such organization to promote the religious or sectarian principles or the aims, purposes or fraternal principles for which it is established or maintained.

SECTION 10. UNLAWFUL PUBLIC ACCOMMODATION PRACTICES

It shall be an unlawful public accommodation practice:

(a) For the owner, lessee, proprietor, manager, superintendent, agent or employee of any business or place of public accommodation, resort, recreation or amusement to:

(1) refuse, withhold from or deny to any person because of his race, color, religion, ancestry, national origin or place of birth, either directly or indirectly, any of the accommodations, advantages, facilities, services or privilges, products of goods of such place of public accommodation, resort or amusement; or

(2) publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, goods, products, services and privileges of any such place shall be refused, withheld or denied to any person on account of race, color, religion, ancestry, national origin or place of birth, or that the patronage of any person of any particular race, color, religion, ancestry, national origin or place of birth is unwelcome, objectionable, or not acceptable, desired or solicited.

(b) For any person, whether or not included in Section 10(a) of this ordinance, to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful public accommodations practice under this ordinance.

SECTION 11. OBSTRUCTION OF FAIR PRACTICES

It shall be unlawful for any person, whether or not within the named classifications set forth in this ordinance, to aid, incite, compel, coerce or participate in the doing of any act declared to be an unlawful practice under this ordinance, or to obstruct or prevent enforcement or compliance with the provisions of this ordinance or any rule, regulation or order of the Commission or to attempt directly or nidirectly to commit

any act declared by this ordinance to be an unlawful practice.

SECTION 12. CITY CONTRACTS

(a) All contracts of the City of Pittsburgh and its contracting agencies shall obligate the contractor to comply with this ordinance and with any state or federal law or laws or regulations relating to unlawful employment practices in connection with any work to be performed thereunder and shall require the contractor to include a similar provision in all subcontracts.

(b) The Commission shall promulgate rules and regulations for the processing of complaints of discrimination received under this section.

SECTION 13. PROCEDURE

(a) A complaint charging that any person has engaged or is engaging in any unlawful practice as set forth in this ordinance, my be made by the Commission, by an aggrieved person or by an organization which has as one of its purposes the combating of discrimination or the promotion of equal opportunities, and any complaint may be amended by the complainant or the Commission at any time before final action has been taken by the Commission, in accordance with such rules and regulations as the Commission shall prescribe.

(b) The complaint shall be in writing, signed and verified, and include the name and address of the person or persons alleged to have committed the unlawful practice and the particulars thereof and such other information as may be required by the Commission.

(c) The Executive Director and staff shall make a prompt and full investigation of each complaint of an unlawful practice and report to the commission.

(d) If the Commission shall determine that there is no basis for the allegations in a complaint, the complaint shall be dismissed and the complainant notified in writing. Within ten (10) days from the receipt of such notice, the complainant or his attorney, may file with the Commission a request for review and the Commission shall provide the complainant and his attorney an opportunity to appear before the Commission, a member thereof, or a staff representative of the Commission. After such a review the Commission may reverse its decision, or if the Commission or its representative determines that there is no basis for the allegation, the dismissal of the complaint shall be affirmed and there shall be no further review of such decision.

(e) If the Commission determines after investigation that probable cause exists for the allegations made in the complaint, it may attempt to eliminate the unlawful practice by means of private conferences or meetings with all parties. The Commission shall not make public the details of such informal proceedings, but it may publish the terms of any agreement when a complaint has been satisfactorily adjusted.

(f) If the Commission determines that a housing accommodation or housing accommodations involved in a complaint of an unlawful housing practice under Section 9 of this ordinance may be sold, rented or otherwise disposed of, before a determination of the case has been made, and the Commission believes that there is prob-

able cause for the complaint, the Commission may request the City Solicitor to seek an injunction restraining the sale, rental, or other disposition of the housing accommodation or housing accommodations in accordance with the provisions of Section 9.1 of the Pennsylvania Human Relations Act of October 27, 1955, P. L. 744, added by Act No. 533, approved January 24, 1966, as hereafter amended, supplemented or modified by the General Assembly of Pennsylvania.

(g) In any case of failure to eliminate the unlawful practice charged in the complaint by means of informal proceedings, or in advance thereof, if in the judgment of the Commission the facts so warrant, the Commission may hold a public hearing to determine whether or not an unlawful practice has been committed or, without holding such a hearing, certify the case to the City Solicitor in accordance with Section 14 of this ordinance.

(h) Where a public hearing is ordered, the Commission shall designate one or more members to conduct such a hearing. The Commission shall serve upon the person charged with having engaged or engaging in the unlawful practice, hereinafter referred to as respondent, a statement of the charges made in the complaint or amended complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the statement of charges.

The respondent shall have the right to file an answer to the statement of charges, to appear at the hearing in person or to be represented by an attorney, or, subject to the approval of the hearing panel, by any other person, an to examine and cross-examine wit-

nesses. The complainant shall also have the right to be represented by an attorney, or subject to the approval of the hearing panel, by any other person. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony, taken at the hearing, shall be under oath and maye be transcribed.

(i) If upon all the evidence presented, the Commission finds that the respondent has not engaged in any unlawful practice, it shall state its findings of fact in writing and dismiss the complaint. If upon all the evidence presented, the Commission finds that the respondent has engaged or is engaging in an unlawful practice, it shall state its findings of fact in writing and shall issue such order in writing as the facts warrant to effectuate the purposes of this ordinance. Such order may require the respondent to cease and desist from such unlawful practice and to take such affirmative action, including, but not limited to, the hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, the selling, renting or leasing of a housing accommodation or housing accommodations upon equal terms and conditions and with such equal facilities, ervices and privileges, the tendering of money, whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, the granting, permitting, selling or admission to any of the accommodations, advantages, facilities, services or privileges, products or goods of any respondent place of public accommodation, resort, recreation or amusement, upon such equal terms and conditions to any person dis-

criminated against or to all persons as, in the judgment of the Commission, will effectuate the purpose of this ordinance and are warranted by the facts presented at the hearing, including a requirement for a report or reports of the manner of compliance. Copies of the order shall be served on all parties.

SECTION 14. ENFORCEMENT

In the event the respondent refuses or fails to comply with any order of the Commission or violates any of the provisions of this ordinance, the Commission shall certify the case and the entire record of its proceedings to the City Solicitor, who shall invoke the aid of an appropriate court to secure enforcement or compliance with the order or to impose the penalties set forth in Section 15, or both.

SECTION 15. PENALTIES

Any person who shall violate any provision of this ordinance relating to unlawful practices, or any rule or regulation pertaining thereto adopted by the Commission or any order of the Commission, shall be subject to a fine of note more than Three Hundred Dollars ($300.00) and in default of payment of the fine and costs shall be subject to imprisonment for a period not exceeding ninety (90) days.

SECTION 16. SEVERABILITY

The provisions of this ordinance are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sen-

tences, clauses, sections or parts of the ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or circumstances to which the ordinance or any part thereof is inapplicable had been specifically exempted therefrom.

SECTION 17. SAVING CLAUSE

The provisions of this ordinance, so far as they are the same as those of ordinances repealed by this ordinance, are intended as a continuation of such ordinances and not as new enactments. The provisions of this ordinance shall not affect any act done or any complaint or dinances. All rules and regulations adopted pursuant to any ordinance repealed by this ordinance shall continue with the same force and effect as if such ordinance had not been repealed.

SECTION 18. EFFECTIVE DATE

The effective date of this ordinance is immediately.

SECTION 19. REPEAL

Ordinance No. 237, approved June 25, 1955, Ordinance No. 523, approved December 8, 1958, and Ordinance No. 106, approved March 10, 1966, are hereby repealed absolutely. Any other ordinance or part of ordinance, conflicting with the provisions of this ordinance, be and the same is hereby repealed, so far as the same affects this ordinance.

Ordinance Number 395

Enacted into law by the Council of the City of Pittsburgh on July 3, 1969. Approved by the Mayor, July 7, 1969. Recorded in Volume 70, Page 691, in the office of the City Clerk.

AN ORDINANCCE — Amending and supplementing Ordinance No. 75, approved February 18, 1967, entitled "An Ordinance prohibiting discrimination in employment, housing, public accomodations and other areas of inter-group relations in the social, cultural and economic life of the City of Pittsburgh; requiring fair employment practices, fair housing practices and fair public accomodation practices by prohibiting discrimination in employment, housing and public accommodations because of race, color, religion, ancestry, national origin or place of birth; establishing a Commission on Human Relations in the Office of the Mayor and prescribing the powers and duties thereof; providing penalties, and revising and consolidating the ordinance relating thereto," to prohibit discrimination in employment, housing and public accommodations and other areas of inter-group relations in the social, cultural and economic life of the City of Pittsburgh because of sex and to require fair employment practices, fair housing practices and fair accommodation practices by prohibiting discrimination in employment, housing and public accommodations for persons of both sexes.

SECTION 1. That Sections 2(A) (1) (2) and Section 2((B) of Ordinance No. 75, approved February 28, 1967, entitled "An Ordinance prohibiting discrimination in employment, housing, public accommodations and

other areas of intergroup relations in the social, cultural and economic life of the City of Pittsburgh; requiring fair employment practices, fair housing practices and fair public accommodation practices by prohibiting discrimination in employment, housing and public accommodations because of race, color, religion, ancestry, national origin or place of birth; establishing a Commission on Human Relations in the Office of the Mayor and prescribing the powers and duties thereof; providing penalties, and revising and consolidating the ordinance relating thereto," is hereby amended to read as follows:

Section 2. Legislative findings and declaration of policy:

(A) Legislative findings.

(1) The population of the City of Pittsburgh consists of people of every race, color, religion, ancestry, national origin, place of birth and sex, many of whom, by reason of their race, color, religion, ancestry, national origin, place of birth or sex are discriminated against in employment opportunities, places of public accommodation, resort, recreation and amusement, and housing facilities.

(2) Discrimination because of race, color, religion, ancestry, national origin, place of birth or sex, is contrary to the Constitution, laws and policies of the Commonwealth of Pennsylvania and the United States of America.

(B) Declaration of policy.

It is hereby declared to be the policy of the City of Pittsburgh, in the exercise of its powers

for the protection of the public safety and the general welfare, for the maintenance of peace and good government and for the promotion of the City's trade, commerce and manufactures, to assure the right and opportunity of all persons to participate in the social, cultural, recreational and economic life of the City and to assure equal opportunity for all persons to live in decent housing facilities, free from restrictions because of race, color, religion, ancestry, national origin, place of birth or sex.

To accomplish these goals, it should be the public policy of the City of Pittsburgh to prohibit discrimination because of race, color, religion, ancestry, national origin, place of birth or sex, in employment, housing and places of public accommodation, resort, recreation or amusement.

SECTION 2. That Section 4(B) of Ordinance No. 75, approved February 28, 1967, entitled as aforesaid, be amended to read as follows:

(B) Discriminate or discrimination — the terms "discriminate" and "discrimination" include any difference in treatment based on race, color, religion, ancestry, national origin, place of birth, or sex.

SECTION 3. That Ordinance No. 75, approved February 28, 1967, entitled as aforesaid, be supplemented by adding thereto a new Section 20 to read as follows:

Section 20. Unlawful Employment, Housing and Public Accommodations Practices Because of Sex.

It shall be an unlawful employment practice, unlawful housing practice or unlawful public accommodation practice for any person to discriminate against any other person in the manner set forth in Sections 8, 9, 10 and 11 of this Ordinance because of sex.

SECTION 4. That any Ordinance or part of Ordinance, conflicting with the provisions of this Ordinance, be and the same is hereby repealed so far as the same affects this Ordinance.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED